127-235

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1887.

No. 221.

RICHARD H. PORTER, APPELLANT,

vs.

STEPHEN V. WHITE.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

FILED APRIL 27, 1888.

Transcripts
of
Records
1887
(Vol 6)
Supreme Court U. States
127 U. S.
235—326

127-235

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1887.

No. 221.

RICHARD H. PORTER, APPELLANT,

vs.

STEPHEN V. WHITE.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

FILED APRIL 27, 1885.

accession 21862

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1887.

No. 221.

RICHARD H. PORTER, APPELLANT,

vs.

STEPHEN V. WHITE.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

INDEX.

	Original.	Print.
Bill of complaint	1	1
Demurrer	7	4
Order overruling demurrer	9	5
Answer	9	5
Exceptions to answer	17	9
Order on exceptions to answer	19	10
Replication	19	11
Deposition of Richard H. Porter	20	11
Exhibit D—Letter of Musser to Rittenhouse, June, 1871	24	13
C—Power of attorney from Smith to Musser, December 28, 1869, &c.	26	15
Letter of Ellerbie to Rittenhouse, May 9, 1870	27	16
Letter of Quiesenberry to Musser, June 5, 1875	29	17
Letter of Porter, April 15, 1875	31	18
Statement of Shields, July 1, 1875	31	18
Letter of Smith to Porter, March 2, 1872	32	19
Exhibit R. H. P. No. 6—Letter of White to Porter, July 17, 1878	33	19
R. H. P. No. 9—Letter of White to Porter, March 24 1879	34	20

JUDD & DETWEILER, PRINTERS, WASHINGTON, DECEMBER 5 1887.

	Original.	Print.
Exhibit J. A. C. No. 4—Power of attorney from Mary A. Conrow to R. H. Musser, December 10, 1869	34	20
Power of attorney from Mildred Standish to R. H. Musser, December 4, 1869	36	21
Letter of Musser to Porter, January 7, 1870	38	22
J. A. C. No. 5—Letter of Musser to Porter, February 2, 1870	38	22
J. A. C. No. 6—Letter of Musser to Porter, February 17, 1870	39	23
Power of attorney from Parsons to Porter, March 12, 1874	39	23
Agreement between Parsons and Porter, March 12, 1874	41	24
Power of attorney from Standish to Porter, May 8, 1874	42	25
Agreement between Standish and Porter, May 8, 1874	43	26
Letter of Coyle to Porter, December 21, 1870	45	27
Exhibit No. 1—Note of Porter to White, February 1, 1876	46	28
No. 2—Receipt of Gallagher to Porter, February 2, 1876	47	28
A—Letter of White to Porter, January 26, 1877	50	30
B—Letter of White to Porter, May 14, 1878	50	30
4—Power of attorney from Porter to White, July 20, 1878	52	31
4[1]—Revocation of power of attorney from Porter to White, May 31, 1879	53	32
E—Letter of Quiesenberry to Porter, March 13, 1882	54	32
Deposition of Samuel C. Pomeroy	58	35
Aaron Van Camp	62	37
Albert Pike	68	41
Stephen V. White	70	42
Exhibit A—Letter of Porter to White, June 11, 1877	76	46
B—Letter of Porter to White, June 16, 1877	77	46
C—Letter of Porter to White, July 28, 1879	78	47
Motions to suppress parts of depositions	86	52
Affidavit of S. V. White as to exhibits letters	87	52
Letter of R. H. Porter to White, January 24, 1877	88	53
February 9, 1877	89	54
January 30, 1877	90	55
March 25, 1879	91	55
March 17, 1879	91	55
March 18, 1880	92	56
June 3, 1877	93	56
May 13, 1878	94	57
May 14, 1878	95	57
May 5, 1878	95	57
Letter of Fred'k K. Porter to White, February 9, 1877	96	58
Stipulation as to evidence	97	58
Letters, &c., read in evidence	98	59
1—Statement of S. V. White, July 28, 1876	98	59

	Original.	Print.
2—Letter of White to Porter, June 9, 1877	98	59
3—Letter of White to Porter, June 12, 1877	98	59
4—Letter of White to Porter, March 24, 1879	99	59
5—Letter of White to Porter, March 24, 1880	99	59
Order to withdraw demands of defendant, &c.	102	61
Decree of Special Term	102	61
Clerk's certificate	104	62
Decree of General Term	105	63
Order as to appeal bond	106	63
Bond	107	64
Clerk's certificate	108	65

1 *Pleas.*

In the Supreme Court of the Dist. of Col.

RICHARD H. PORTER
vs.
STEPHEN V. WHITE. } Eq. No. 7536.

1. The plaintiff is a resident of the city of Louisville, in the State of Kentucky, and he brings this suit in his own right.

2. The defendant is a resident of the city of New York, in the State of New York, and he is sued in his own right.

3. In the year 1865 Austin M. Standish, Monroe M. Parsons, and Aaron H. Conrow, three citizens of the United States, residing, while living, in the State of Missouri, while traveling in the Republic of Mexico were unlawfully killed by the Mexican authorities, and in 1869 and 1870 the plaintiff was authorized by powers of attorney from the legal representatives of said Standish, Parsons, and Conrow to present to and prosecute before the joint commission of the United States and Mexico for the settlement of claims of the citizens of the United States against the Government of Mexico and of the claims of citizens of Mexico against the Government of the United States the claims of the estates of said Standish, Parsons, and
2 Conrow against the Mexican Government for the unlawful killing of said persons. His powers of attorney stipulated that he should be entitled to the one moiety of whatever sums might be awarded by said commission to the said legal representatives of the said Standish, Parsons, and Conrow as compensation for his services and expenses in the prosecution of said cases.

4. The plaintiff did prosecute said case and pay or assume all the necessary expenses thereof, and in the year 1874 or 1875 the said commission awarded to the legal representatives of said Standish the sum of $42,486.30, to the legal representatives of said Parsons $50,828.76, and to the legal representatives of said Conrow $50,497.26, and by virtue of said contract the plaintiff became entitled to the one-half of said sums, respectively, and the said legal representatives of said parties recognized his right to said moieties, and respectively claimed for themselves but the one-half of said awards. The said award was to be paid, by the terms of the convention between the two Governments, in annual installments. There is now in the custody of the Secretary of State of the United States something over $20,000 applicable to the plaintiff's moieties upon said three awards, and the said Secretary is ready and willing to pay the same whenever it shall be determined who is entitled thereto.

5. In the year 1876 the plaintiff borrowed from the defendant at different times and in several amounts an aggregate of about $5,000, and to secure the repayment thereof, with interest, the plaintiff gave the defendant his note and also a lien upon his moiety in said Parsons award, and also gave the said defendant a power of attorney

to collect *said* his said moiety of said Parsons award;
3 that subsequently, in 1877, plaintiff borrowed from the defendant an additional sum of money, making an aggregate, with what he had borrowed before, — about $7,500; that the defendant, as a condition of making said last loan, required the plaintiff to make to him an absolute assignment of his moiety of the Standish award; but, although said assignment was to be absolute in form, it was agreed and understood that it was to be simply as security for the money borrowed and for the services to be thereafter performed by the said defendant in the collection of said moieties for the plaintiff, and in pursnance of said understanding and agreement the plaintiff did assign absolutely his interest in the said award of Standish, and the plaintiff charges that, in equity; said assignment, although in form absolute, was but a mortgage or pledge of his said interest in said moieties for the repayment of said moneys, with interest, and for the services to be rendered by said defendant in the collection of the plaintiff's interest in said awards.

Certain persons representing that the plaintiff had obligated himself to pay them out of his interest in said awards divers sums had filed claims with the Secretary of State upon plaintiff's interest in said fund; said claims were almost wholly false and unjust, but, nevertheless, the Secretary of State had been embarrassed by them, and had refused to pay the plaintiff his interest in said awards until the rights of all parties making claims upon the fund should be settled. The defendant represented to the plaintiff that he was on intimate terms with the Secretary of State and could easily procure the payment of his said interest in said awards if the plaintiff would authorize

and empower him thereto. Believing said representation to
4 be true and implicity confiding in the integrity of the defendant, he gave him power of attorney to collect not only the Standish and Parsons cases, which had been assigned to him, but gave him also the said Conrow case, in which the defendant had no interest whatever.

6. The defendant now, in fraud of the plaintiff's rights and contrary to the agreement and understanding upon which plaintiff assigned to him the said two cases of Parsons and Standish, claims that he is the absolute owner of said two moieties, and refuses to recognize that the plaintiff has any right or interest therein whatever. The moieties of the plaintiff in said two cases amount to not less than $46,000, and the whole of this sum the defendant claims on account of his loan to the plaintiff of about $7,500. The defendant has no other claim upon the plaintiff nor upon said fund, for he has failed to render the plaintiff any service whatever in the collection of his moieties, and has been conspiring with others who were setting up false claims against said fund to cheat and defraud the plaintiff.

7. The defendant also refuses to recognize the right of the plaintiff to the moiety of the Conrow case, claiming that he has purchased the plaintiff's interest therein from one Richard H. Musser, who set up a false and fraudulent claim to the one-half of plaintiff's moiety of said Conrow case. Plaintiff believes and therefore charges

that the pretense of the defendant that he purchased said pretended claim of said Musser is false, and that while he holds an assignment from said Musser, that he has, in fact, paid nothing therefor, but that he has simply conspired with said Musser to cheat and defraud the plaintiff, and has taken said pretended assignment as an
5 excuse for withholding from plaintiff his interest in said Conrow claim. The defendant well knew if he did buy said pretended claim of said Musser that it was false and fraudulent, and that plaintiff totally repudiated and scouted it. The defendant was acting or professing to act as the plaintiff's attorney while he was pretending to buy up false claims against the plaintiff's interest in said fund, in fraud of his said trust.

8. The Secretary of State, after carefully considering all the claims presented against said moieties, has decided that none of the claimants have any lien upon said fund except the plaintiff and defendant, and is ready and willing to pay the amount now in his control applicable to said three moieties upon the joint receipt of the said defendant and plaintiff. The plaintiff has in a friendly manner, through his agents and attorneys, appealed to the said defendant to settle and adjust the difference between them, and in his desire to make an amicable settlement has offered to allow the defendant a much larger sum than he is equitably entitled to have, yet, thinking he has the advantage of the plaintiff, he has persistently refused to entertain any proposition for settlement except upon condition that plaintiff shall secure to him absolutely the two cases of Standish and Parsons, and then he will only agree to negotiate as to the Conrow case for the interest of plaintiff therein, subject to the false and fraudulent claims which he pretends to have purchased upon said moiety. Plaintiff has made repeated application to the Secretary of State to pay him the amount of his said moieties less the claim of said defendant for borrowed money, but although the plaintiff is informed that the said Secretary is satisfied from the evidence that this is all the equitable claim the defendant has in said case,
6 yet, inasmuch as he holds absolute assignments for said Parsons and Standish cases, he will not undertake to decide the rights between plaintiff and defendant, but leaves them to settle their controversy by amicable adjustments or by the determination of a court of competent jurisdiction. Inasmuch, therefore, as the plaintiff is remediless, save in this honorable court, he prays that the United States writ of subpœna may issue to the said defendant that he may be a party defendant to this suit; that *they* may be required to answer all and singular the allegations of this bill without oath; that the matters herein stated may be enquired of by the court, and upon the final hearing hereof the defendant may be adjudged to hold said assignment of the plaintiff's moieties in the said cases of Standish and Parsons as security for the plaintiff's indebtedness to him for money borrowed and for no other purpose and in no other right, and that he may be ordered and decreed to cancel or reassign to the plaintiff said moieties upon the payment to him by the plaintiff of the amount of money, with interest, which the court may find the plaintiff may be indebted to him; that he may

be decreed to authorize and empower the plaintiff to collect from the Secretary of State the amount of the installments now in his hands applicable to all three of said cases of Standish, Parsons, and Conrow, and for such other and further relief as may be necessary.

R. H. PORTER.

S. S. HENKLE, *Sol'r.*

I do solemnly swear that I have heard read the bill by me subscribed, and know the contents thereof, and that the facts therein stated upon my personal knowledge are true, and that the facts therein stated upon information and belief I believe to be true.

R. H. PORTER.

7 Sworn to and subscribed before me this 11th day of December, 1880.

[SEAL.] R. J. MEIGS, *Clerk*,
By R. J. MEIGS, JR., *Ass't.*

True copy.

[SEAL.] R. J. MEIGS, *Clerk*,
By R. J. MEIGS, JR., *Ass't.*

RICHARD H. PORTER
vs.
STEPHEN V. WHITE. } No. 7536.

And afterwards, on January 26, 1881, there was filed in said cause a demurrer in the words and figures as follows:

Demurrer to Bill in Equity.

Supreme Court of District of Columbia.

RICHARD H. PORTER, Plaintiff,
vs.
STEPHEN V. WHITE, Defendant. } Equity Docket, No. 7536.

The defendant, Steven V. White, now comes and in his own proper person defends, and to the plaintiff's bill, as exhibited to this honorable court, demurs.

And for cause of such demurrer defendant assigns the causes following, viz:

1. This court is without jurisdiction in the premises, for that the distribution of these awards belongs wholly by law to the Secretary of State of the United States.

2. The bill is multifarious in that it seeks to redeem as
8 pledges for the security of money the two awards of Parsons *vs.* Mexico and Standish *vs.* Mexico, and to assert as title as owner by paramount title in the award of Conrow *vs.* Mexico.

3. The plaintiff shows that he has a plain, speedy, and adequate remedy at law in this, to wit:

Upon the facts as stated plaintiff could maintain trover or case for the wrongful conversion of the awards of Standish *vs.* Mexico and Parsons *vs.* Mexico if defendant should receive the same and fail to pay over the proceeds to plaintiff.

4. There is no averment of insolvency against the defendant in the premises to give the court equitable jurisdiction to interfere with the defendant's right to collect the said moneys.

S. V. WHITE, *Pro. Se.*

I, Stephen V. White, a counsellor-at-law and of counsel in equity, do state that I have no other counsel herein, and that the foregoing demurrer is well founded in point of law.

S. V. WHITE, *Pro. Se.*

I, Stephen V. White, do state on oath that the foregoing demurrer is not interposed for delay.

S. V. WHITE.

Subscribed and sworn before me January 26, 1881.

R. J. MEIGS, *Cl.*,
Per R. J. MEIGS, JR., *Ass't.*

And afterwards, on the 6th of May, 1881, the following proceedings were had, to wit:

9 In the Supreme Court of the District of Columbia.

RICHARD H. PORTER
vs.
STEPHEN V. WHITE. } Eq. No. 7536.

This cause came on for hearing upon the demurrer of the defendant to the bill, and was argued by counsel; in consideration whereof, it is, this 6th day of May, 1881, ordered, adjudged, and decreed that the said demurrer be overruled; and, on motion of the defendant, he has leave to plead to or answer the bill within ten days from this date.

By the court: A. WYLIE.

Answer.

And afterwards, on May 17, 1881, there was filed in said cause an answer in the words and figures following, to wit:

RICHARD H. PORTER
vs.
STEPHEN V. WHITE. } Equity, 7536.

This defendant, saving and reserving to himself the right hereafter to except to the many irregularities and insufficiencies of the complainant's bill herein contained, for answer to so much thereof as

the defendant deems material, respectfully shows to this honorable court—

1. Defendant admits that the citizens Standish, Parsons, and Conrow were unlawfully killed in Mexico; but defendant expressly denies that in 1869 and 1870 or at any other date the plaintiff was authorized by powers of attorney from the various legal representatives of said murdered citizens to prosecute claims against the government of Mexico for the unlawful killing, and denies that he was promised in any such power of attorney a moiety or other percentage for his said services. Defendant denies that plaintiff prosecuted said claims to judgment before said commission, but admits that judgments were awarded in said causes against Mexico for the several aggregate sums stated, but he denies that plaintiff was entitled to any percentage thereof whatever or that the legal representatives of said murdered citizens recognized his rights thereto.

Defendant admits that the awards were to be paid by Mexico in annual instalments, and admits that up to the time of the filing of the plantiff's bill there were over $20,000 awaiting distribution, no portion of which, as defendant avers, either directly or indirectly, belonged to plaintiff.

2. The defendant denies each and every allegation in the fifth paragraph contained, except as admitted in this answer in other parts thereof, in reference to questions referred to therein.

3. In like manner he denies each and every allegation in the sixth paragraph contained, except as the same may be consistent with this answer in other parts hereof.

4. In like manner he denies specifically each and every matter in the seventh paragraph contained inconsistent with other statements herein of this answer on the subject-matter thereof, but in this connection admits that there has been many claimants for the awards, all claiming under the plaintiff in the character of assignee or partner of plaintiff.

5. Defendant admits that at the time of filing of the bill herein the Secretary of State had informally gone to the extent of deciding that none of such assignees or partners had any lien upon said fund, and that he was then informally proposing to pay the same on joint receipt of these litigants; and defendant avers that since that time the Secretary of State has formally decided that plaintiff had no lien either, and has paid all said moneys collected up to this date to this defendant.

Defendant admits that he withstood the blandishments and seductive influences of plaintiff and his numerous accomplished agents and attorneys and refused to sign any joint receipts, preferring rather an honorable litigation to a dishonorable compromise, and all other matters in the 8th paragraph not admitted elsewhere he specifically denies.

6. And defendant, further answering, says that in the year A. D. 1869 or 1870 the legal representatives or next of kin of said murdered citizens made certain executory contracts with one Richard H. Musser, whereby the said Musser undertook to furnish necessary money and to do necessary legal work to establish the claims of such

legal representatives and next of kin of the murdered citizens, and the said claimants undertook, upon such services and money being furnished, to pay him a fee which should equal the moiety of any awards in the premises in each respective case.

That said executory contracts were in writing, and in pursuance thereof the said claimants executed powers of attorney, whereby the said Musser was constituted attorney-in-fact, irrevocable, with a statement that the power of attorney was coupled with an interest, and defendant expressly avers that said powers of attorney conferred personal trusts reposed in said Musser, who was himself learned in the law and fitted to prosecute claims before such tribunal.

12 That about that time there was a verbal contract made between the said Musser and plaintiff, whereby it was agreed that plaintiff should furnish the money and said Musser do the legal work, and the two should divide the fees of Musser under the contract.

The plaintiff failed to furnish the money to carry on said suits, and in 1871 or 1872 the two quarreled, and plaintiff undertook to settle the partnership affairs by dismissing the said Musser from the retainer he then held under the contract from the claimants and by forcibly detaining said clients of Musser, who had never retained him.

That said plaintiff was not a lawyer, but, on the other hand, was pre-eminent for his illiteracy, ignorance, and presumption, and was not fitted to take charge of the preparations of the cases before the commission, and Musser was left with the responsibility of furnishing money and doing legal work while bereft of a partner.

In the discharge of his duties, by agreement with the several claimants, he retained the eminent firm of lawyers, Messrs. Pike & Johnson, and it was agreed in writing between the claimants that the said firm should receive 25 per cent. of the resulting awards, to be taken by agreement from said Musser's moiety.

7. And defendant, further answering, says that upon the awards being rendered the several claimants executed assignments to said Musser and Pike & Johnson for a moiety of each of said several awards now on file in the State Department, and that about February 12, A. D. 1879, said Musser and Pike & Johnson, for the consideration of $30,000, sold, assigned, and transferred said moiety to this defendant, who now holds the same in his own right.

13 8. And defendant further avers that in the year A. D. 1874 the plaintiff, by a series of fraudulent acts and by intimidation and threats of defeat of claimant's claim if a contract were not made, procured from S. Kearney Parsons a contract and power of attorney, such as then existed between his curator and said Musser; that after the awards were made he attached said contract to the exemplification of the record of the judgment and award, and concealing the fact that there was an older contract and power of attorney, irrevocable, he sold, assigned, and transferred his right to the said judgment to this defendant by assignment, now on file in the State Department; that said sale was absolute, and was made on November 20, 1876; that the consideration paid was, first, the cancellation

or payment of sundry loans of money theretofore made by this defendant to plaintiff, amounting, exclusive of interest, to the sum of $4,000; second, by the payment of $3,000 additional cash; third, by the conveyance of a brown stone front house and the lot on which it stood, on Lafayette avenue, Brooklyn, N. Y., which house and lot was conveyed subject to a mortgage, but was worth $3,000 over the incumbrance; that all said money, amounting to $10,000, was obtained wholly without consideration by the pretended sale of an award in which plaintiff had no interest.

9. That about June 11th a like pretended sale was made of the award of Standish against Mexico on a like pretended fraudulent power of attorney, which was bought by defendant from plaintiff for $5,000 cash, although at that time a court of competent jurisdiction, to wit, the circuit court of the State of Missouri within and for St. Louis county, theretofore, in a suit in which all the
14 parties in interest, to wit, Mildred Standish and Richard H. Musser, as defendants, and Richard H. Porter, as plaintiff, the final decree in which was never appealed from, had decided that said power of attorney and contract under which said award of Standish against Mexico was sold by plaintiff to this defendant were never executed and delivered by Mildred Standish to plaintiff, but that they were obtained by fraud and deceit and were procured to be delivered to said Porter by false representations, and that plaintiff was not entitled to take anything thereunder; that reference to an exemplification will be made upon the hearing hereof; and so defendant says that plaintiff is indebted to him *to* the sum of $15,000, with interest on $10,000 from November 20th, 1876, and on $5,000 from June 21st, 1877, at 7 per cent. for money obtained in the said several cases under false pretenses, for which, with interest, defendant asks for a decree as upon a judgment by suit at law.

10. And this defendant avers that at sundry dates in 1877 and 1878, subsequent to June 21st, 1877, he loaned plaintiff on one occasion $1,625 and on another $750, for which, with interest at 7 per cent., as upon a suit at law, this defendant asks for a proper decree.

11. And defendant, further answering, says that heretofore, on April 18th, 1881, in the supreme court of the District of Columbia, in the several cases of McManus *vs.* Standish *et als.*, No. 6382 of this court; Peugh against Standish *et als.*, cross-bill, No. 6382 of this court; Chiles *vs.* Porter *et als.*, No. 6703 of this court; Winder *vs.* Standish *et als.*, No. 7011 of this court, this plaintiff and defendant were codefendants in each and every of said suits.

That it then and there became and was the duty of these
15 litigants to state, without collusion or reservation, the respective rights under which they claimed to hold the awards in these several cases, which they severally did, under oath.

That it then and there became and was a necessary issue in said several causes which then and there were on hearing to determine as to whether this defendant, the assignee of Richard H. Musser, and Pike & Johnson, on the one hand, or Richard H. Porter and the several plaintiffs in those cases, as assignees of said Porter, on the other hand, was or were entitled to the moiety of the awards in controversy.

nd defendant says that on said April 18th, 1881, said court in general term, through his honor Mr. Justice Wylie speaking for the court, composed on that day of Mr. Justice Hagner, Mr. Justice Wylie, and the chief justice, did decide on such necessary issue then and there presented that neither said Porter nor any one claiming under him was or were entitled to any portion of said awards.

This defendant annexes a *verbatim* report of said opinion as Exhibit A, of the correctness of which, occurring within the acts of this honorable court, this court will take judicial knowledge, and he pleads and relies upon the result of said suit, taken in connection with said opinion, as a bar to any further claim of plaintiff in the premises.

12. And, further answering, this defendant says that under the act of Congress approved June 18th, 1878, the Secretary of State of the United States is clothed with quasi-judicial powers, and that he is, under said statute, specially charged with the duty of paying the awards to claimants, their legal representatives or assignees, which implies the duty of deciding officially what parties are entitled
16 to receive said moneys in character of assignee; and defendant says that, being so charged with such official duty of determination as to who is assignee in the premises, the said Secretary did, on May 5th, 1881, decide that this defendant, as assignee as aforesaid, was entitled to the money, and did pay all thereof heretofore paid thereon by Mexico to this plaintiff.

And defendant avers that said action of the honorable Secretary is an adjudication of the rights of these litigants in the premises, which he pleads and on which he relies.

And, having fully answered, defendant asks the court for a decree against plaintiff for the amount which, upon an accounting, may be found due him with costs and all other proper equitable relief and as in duty bound doth humbly pray.

S. V. WHITE, *In Person.*

17 In the Supreme Court of the District of Columbia.

RICHARD H. PORTER
vs.
STEPHEN V. WHITE. } Eq. No. 7536.

And now comes the plaintiff, by his solicitors, and excepts to the answer filed by the defendant in this cause and assigns the following for exceptions thereto:

1. That said answer is not framed in accordance with rule 53.

2. The 1st, 2d, and 3d paragraphs of the bill of complaint are not answered.

3. The defendant's 2d paragraph purports to be in part an answer to the 5th paragraph of said bill, but said answer confessedly admits that said paragraph of said answer is not a full and complete answer to said 5th paragraph of said bill, and says "he denies each and every allegation in said 5th paragraph, except as admitted in this answer in other parts thereof."

4. The 5th paragraph of said answer is vague, uncertain, and indefinite in its statement of facts and undertakes to give conclusions of law.

5. The 6th paragraph of said answer is excepted to because in no manner tending to answer any of the paragraphs to said bill, but, on the contrary, is new matter, containing impertinent and scandalous matter.

6. The 7th and 8th paragraphs are uncertain and indefinite, and said defendant should be compelled to answer in full the paragraphs of said bill calling upon defendant to state the exact consideration and how much was paid to complainant for the alleged purchases of the awards named in said bill; that the 8th paragraph is
18 further excepted to because it alleges that plaintiff, by a series of fraudulent acts and intimidations and threats of defeat of claimant's claims if contracts were not made, procured from S. Kearney Parsons a contract and power of attorney, &c., because the same does not state what acts of fraud and deeds of intimidation and threats were done by or attempted to be put into execution by complainant.

7. The 9th paragraph of said answer is also excepted to for uncertainty in not setting out the false and fraudulent devices used by complainant in obtaining the money by fraud, as set forth in said paragraph, and the same objection will also apply to the 10th paragraph of said answer, and both paragraphs are further excepted to because a personal judgment as at law is asked for by defendant against the plaintiff.

8. The 11th paragraph is excepted to, so much as sets out the entire opinion of the court in banc in the cases of Winder *et al. vs.* Porter *et al.* and Chiles *vs.* Porter *et al.*, as not material to the issue here made, and is no part of the facts called upon to answer by said bill, and can be of no use to defendant in this case unless it is intended to cast ridicule and contumely upon complainant; that said opinion does not bind complainant, because said complainant was defendant in all of said suits, and was not asking for any affirmative relief from the court.

9. The 12th paragraph is excepted to because it states a conclusion of law and not of fact.

HENKLE & JOHNSON,
Solicitors for Complainant.

And afterward, on the 12th of October, 1881, the following proceedings were had, to wit:

19 RICHARD H. PORTER *vs.* STEPHEN V. WHITE. } Eq. No. 7536.

This cause coming on to be heard on complainant's exceptions to defendant's answer, and the same having been argued by counsel and duly considered, it is, this 12th day of October, 1881, ordered that exception No. 8 is sustained, and the defendant is required to

strike from his answer so much thereof as professes to set out the opinion of the court.

All the other exceptions are overruled, but without prejudice to the complainant's right to renew the same at the hearing, should he think proper.

It is further ordered that so much of said answer as professes to set out the adjudication by decree in the several suits of McManus *vs.* Standish *et al.*, 6382; Chiles *vs.* Porter *et al.*, 6703, and Winder *vs.* Standish *et al.*, 7011, in the nature of a plea of *res adjudicata*, be stricken from said answer, with liberty to defendant to avail himself of the same matter by regular plea, which he is required to file on or before the 1st day of November next, this order to extend in like manner to the decision of the Secretary of State, on which defendant in his answer relies also as *res adjudicata*.

By the court, at chambers.

A. WYLIE.

And afterward, on the 10th day of November, 1881, there was filed in said cause the following replication in the words and figures as follows, to wit:

In the Supreme Court of the District of Columbia.

RICHARD H. PORTER
vs.
STEPHEN V. WHITE. } Eq. No. 7536.

20 The plaintiff joins issue with the defendant upon so much of the answer as was not stricken out under the order of the court of October 12, 1881.

S. S. HENKLE,
J. J. JOHNSON,
Solicitors for Plaintiff.

And afterwards, on the 30th day of January, 1882, there was filed in said cause the following, to wit:

RICHARD H. PORTER, being duly sworn, deposes and says as follows:

My name is Richard H. Porter; age, 62; residence, Louisville, Ky.; occupation, a physician. I am the plaintiff in this suit.

Question 1. Please state what connection, if any, you had with the prosecution of the claims of the heirs or legal representatives of Parsons, Standish, and Conrow before the mixed American and Mexican commission for damages on account of the murder of those three parties by the Mexican authorities in Mexico in 1865.

Answer. In the year 1869 I was here prosecuting claims; rooming in the Plant building, corner of Fifteenth street and New York avenue. John Chiles was rooming in the same building at the same time. We got into a conversation about the Mexican commission, and about claims which might be gotten before the commission. He said he knew of some claims in Missouri. I asked who they

were. He declined at that time to tell me. I said, "Let's get them and prosecute them together." He declined to do so, saying that Judge Gist and himself were prosecuting claims, and that he had gone to Missouri to get those. I thought no more about it until two or three days afterwards the subject came up between us, and he told me who the claimants were, and the parties who were killed,
21 naming them: Standish, Parsons, and Conrow. I said that I knew all about it, and had read of the account in the St. Louis Republican. I thought no more of the matter at that time (the spring or early summer) and until some time in the fall, when I met Judge Gist and asked him if he had gotten those claims of Standish, Parsons, and Conrow to prosecute. He said, "No." I said to him, "Chiles told me that you had gone to Missouri to get them." He said, "No; I have not been to Missouri; I have been to Texas; I did not go after the claims, and I do not intend to go." Some few weeks after that I went to Missouri and determined to get the claims. I asked Colonel Robert Rennick and General Shields, of St. Louis, to recommend some young man to me who had read law just long enough to take depositions and to write out powers of attorney, &c.; that I thought I should prosecute, if I could get them, the claims of Standish, Parsons, and Conrow. They recommended one Richard H. Musser, of St. Louis, whom I had known as a boy in Kentucky. I said I did not want him; that he was an old lawyer, and I could not afford to pay what he would charge. They both remarked that he could work as cheap as any one; that he was an ex-Confederate, and they didn't suppose he got a square meal once a week, except on Sunday, when he came to one or the other of their houses.

I called upon Musser, and told him what I wanted him to do, that I wanted him to get powers of attorney from Mrs. Standish, Parsons, and Mrs. Conrow, stating that I would pay him for so doing. He then and there agreed to attend to it for me while I went to Independence, Mo., on other business. I gave him a copy of powers of attorney and contract, such as I wanted them to sign. My
22 name was in them as attorney-in-fact, with power of substitution, explaining to him why I wanted it; that I would have to employ attorney or attorneys in Washington city. I returned to St. Louis some time in the winter of 1870. Musser wrote me that he had the powers of attorney. When I got to St. Louis he showed them to me. Seeing his name instead of mine as attorney-in-fact, I complained of it and told him that that was not our agreement.

He assured me that he meant nothing by doing so; that he thought, as they knew him and he was present, that they would more willingly give the powers of attorney and contracts to him than to me, and, as the powers of substitution were complete, they answered the same purpose for him to substitute me as though I were mentioned originally in the powers of attorney.

These powers of attorney were to authorize the attorney to prosecute the claims of the claimants before the United States and Mexican mixed commission.

Powers were irrevocable, coupled with an interest, with full power of substitution, agreeing to sign any paper or papers hereafter that might be necessary in the prosecution and collection of these claims.

The contracts bound the claimants to pay the attorney-in-fact fifty per cent. or one-half of any amount that might be procured as a judgment, he binding himself to be at all expense in prosecuting these claims at Washington, D. C.

In February, 1870, I came to Washington and employed Messrs. Rittenhouse and Peugh to prosecute these claims here, they being at all expense.

Rittenhouse subsequently, for a valuable consideration, released his contract to me, which I claim passed to me whatever claim Peugh may have had with Rittenhouse.

23 February 16, 1870, I sent R. H. Musser $125 to pay for services that he had or might render upon these claims. I returned to St. Louis in March or April following and remained there nearly all that summer assisting in getting up depositions.

In March or April, 1870, I had taken these powers of attorney from Musser's office—before July 4th.

In April, 1870, I gave Musser $120 to go to Jacksonport, Arkansas, to take the deposition of Captain Siler. This made $245 which I had paid Musser for services, besides other small amounts that I gave him from time to time, of which I made no account.

On July 4, 1870, I went to Musser's office and took with me the powers of attorney and had him write the substitution to me on each of the powers of attorney—on Parsons', Standish's, and Mrs. Conrow's claim and on David Conrow's claim, as I was coming to Washington to look after the prosecution of these cases.

As I stated, I had taken these powers of attorney from Musser's office in March or April, 1870, and ever after they were continuously in my possession. I returned to St. Louis again in September, 1870, when I gave him $175 or $180, out of which he was to pay John Robb, of St. Louis, for me, $45. The rest was for Musser to pay any expenses which might be incurred in taking depositions.

The depositions of Captain Siler, General John B. Clarke, and three memorials to the commission originally written by Musser all had to be rewritten and the two depositions taken over, which was considerable expense to me.

I returned to Washington the same fall, when Rittenhouse showed me a letter from Musser, in which he claimed to be the principal attorney in the cases. Surprised at this evidence of his want

24 of good faith, I immediately wrote to him and characterized his insertion of his own name in the powers of attorney as an unworthy trick, and that I would take steps to close any relations existing between us.

The letter of Musser to Rittenhouse and Peugh is here offered in evidence and marked Exhibit D.

ST. LOUIS, *June* —, 1871.

To C. E. Rittenhouse:

I substituted Dr. Porter for me as attorney-in-fact last summer. * * * He has, I think, the contracts handed to him at the same time.

R. H. MUSSER.

In June, 1871, I went to Missouri and tried to make a settlement by which this intruder could be got clear of, but I was unsuccessful.

I then wrote the claimants the state of affairs; that I was the real attorney who had the labor done and who had paid the expenses incurred. I wished them to protect me by a new power of attorney. They thought the former powers would protect me against Musser, as my name had been substituted in them, but they offered to give new powers if I thought it necessary.

Musser probably knew of this for, as far as I know, he did nothing thereafter for more than a year.

In the spring of 1872, Mr. Ashton, the attorney on the part of the United States, notified me that it was necessary to file a brief in the cases by a certain date. I had the brief prepared and went to the State Department and left one in each case, and also sent a copy to each of the claimants.

The notice from Ashton is here put in evidence and marked Exhibit 2.

(This letter referred to has not been found.—Mandeville, ex.)

On reaching Washington Rittenhouse and Peugh told me
25 that Musser had retained Colonel Johnson; that Musser had written to the effect that I was never substituted in the cases; that he was the original attorney and was then the attorney; that I had taken the powers of attorney without his consent, and that any apparent substitution of my name was a forgery. Col. Johnson confirmed to me this account of Musser in the presence of Colonel Charles Winder, the two Pikes, C. E. Rittenhouse, and S. Peugh. I told Colonel Johnson that Musser's statements were false.

Colonel Johnson assured me that if I could show my authority he would have nothing more to do with the cases. This was in the presence of the gentlemen named. I showed my authority. He expressed great surprise and indignation and said he would close his connection with the cases.

In 1874 I had seen Mussey's scheme to oust me as attorney. I knew my legal rights under the substitution in the original powers of attorney, but I sent new powers to Mrs. Standish and to S. K. Parsons for execution. I sent, also, a contract. These were executed. Mr. Parsons came on here and made inquiries of Pike & Johnson and at the commission. Being satisfied of my part done, he delivered the new powers and new contract to me. Messrs. Pike & Johnson never knew of these cases till 1872, when the time had passed for the rendering of legal services. They took the printed argument of Mr. Winder and put their names upon it. They never did any-

thing in the cases, and derived all their authority only from Musser, who never was the attorney-in-fact.

The new powers, like the original ones, gave me an interest in the judgment of one-half of the net proceeds.

The powers of attorney and contracts last referred to are herewith filed, marked Exhibits C and C'.

26 EXHIBIT C.

No. 66.

UNITED STATES OF AMERICA,
DEPARTMENT OF STATE.

To all to whom these presents shall come, Greeting;

I certify that the paper hereto annexed is a true copy from the files of this Department.

In testimony whereof I, Frederick T. Frelinghuysen, Secretary of State of the U. S., have hereunto subscribed my name and caused the seal of the Department of State to be affixed.

Done at the city of Washington this 20th day of Jan'y, A. D. 1882, and in the Independence of the United States of America the one hundred and sixth.

[SEAL.] FRED'K T. FRELINGHUYSEN.

Know all men by these presents that I, J. L. Smith, guardian curator of S. Kearney Parsons, son and sole heir-at-law of Monroe M. Parsons, have made, constituted, and appointed Richard H. Musser, of this city and *and* county of St. Louis and State of Missouri, my true and lawful attorney-in-fact and agent for me, and in my name, room, and stead, on my behalf, of my said ward, to prosecute and solicit before the joint commission of the United States of America and the Republic of Mexico certain claims held by me as guardian of the said S. Kearney Parsons; and my said agent and attorney-in-fact is authorized and empowered to prosecute in my name and to solicit for the allowance of said claim in every particular; do and perform for me such acts as I could or would do if myself personally present; to receipt for money, pay expenses, and make such compromises and negotiations relating thereto as in his judgment he may deem best; and my said agent and attorney-
27 in-fact is further hereby fully authorized and empowered to make, constitute, and appoint by substitution such other agents and attorneys-in-fact as to him may seem proper, who have by reason and under the said appointment full power and authority to the extent hereinabove granted to act for me.

Hereby ratifying and confirming all and singular the acts of this my said agent and attorney-in-fact, I have hereunto set my hand and seal this 28th day of December, A. D. 1869.

[SEAL.] J. L. SMITH,
Guardian S. Kearney Parsons.

ST. LOUIS, MISSOURI, *July 4th*, 1878.

Richard H. Porter is substituted and authorized to act according to and under the power herein given.

R. H. MUSSER.

WASHINGTON, D. C., *May* 17, 1872.

The original instrument of writing or power of attorney now before me having been carefully read over and carefully compared with the foregoing I hereby certify the same to be a true and genuine copy of the same.

[SEAL.] C. E. RITTENHOUSE,
Notary Public.

(Copy.)

No. 318 MARKET ST., ST. LOUIS, *May* 9, 1870.

C. E. Rittenhouse, Esq., Washington city, D. C.

DEAR SIR: I have this day sent you by express (Adams') the following papers: The original memorials, 30 printed copies in English and Spanish of each memorial, and the depositions in each case in the following cases, to wit: Standish's Widow *vs.* Mexico, Conrow *vs.* Mexico, and Parsons' Heir *vs.* Mexico. The printed copies of the memorials (in Spanish) are all correct, both in translation and printing. There are some clerical errors in the printed copy (English) of the Parsons memorial, but none of importance. The English copies in the other two are correct. The depositions are all perfect in the case of Parsons, but in the other two memorials the depositions are not complete. We have not received the depositions of Capt. Siler for those two cases, but are looking for them every day, and will send them to you as soon as received. Dr. Porter, at whose request this letter is written, is in Kansas City, and will return to St. Louis this week.

28

Yours respectfully, C. P. ELLERBIE.

List of Depositions.

In case of Parsons.	In case of Standish.
James L. Minor and others.	James L. Minor and others.
G. A. Parsons.	H. Clay Ewing.
John B. Clark.	John B. Clark.
Certificate of appointment of Jackson L. Smith.	Certificate of appointment of guardian and deposition of Capt. Siler (not yet in).
James W. Siler; upon this one the whole case depends.	

In the case of Conrow.

John B. Clark.	Joseph E. Block.
John Allen.	David Quiesenberry.
Caleb Conrow.	L. L. Taylor and deposition of Capt. Siler (not yet in).
C. Y. Gamier.	
Alex. Deniphan.	

There is no certificate of ap't of guardian in the case of Mrs. Conrow, there being no guardian or administrator of the estate,
29 Conrow being in very destitute circumstances. Smith was ass't curator of est. of Parsons on the death of Mrs. Parsons, in 1864.

Please acknowledge the receipt as soon as received.

C. P. ELLERBIE.

(Copy.)

RICHMOND, MO., *June* 5, 1875.

Col. R. H. Musser:

Your letter of the — inst. is at hand and contents duly noted. We had hoped that when the umpire had made his final award that there would be no further difficulty or annoyance on our part. We have always shown the greatest willingness to do exactly what we promised, viz., to retain one-half of the gross amount that should be received and give the other to the agents and attorneys by whose skill and labor the result was obtained; but we have been subjected to continued solicitations and annoyances growing out of your own imprudence, not in any way out of ours. You first substituted Dr. Porter as an attorney and assigned him our contracts with you. He was here yesterday and I confess I was greatly surprised, after all that had passed between us, to find these in your own handwriting. We never saw him before now; knew nothing of him. It was all done by yourself, without consulting us in any way; at your solicitation and upon your assurance that it would be satisfactory to Winder, whom you had seen, to have a new power of attorney made to Col. Johnson, we done so. Now, I only state these things in no unkindness, but simply to bring before you that all these annoyances have grown out of your own action and not ours. Now, remember, my daughter, Mrs. Conrow, is a lady who has had to undergo more than her share of sorrow and suffering, mental and physical, that she should be rendered nervous and sensitive by these unnecessary, unceasing annoyances. We require that these matters, not with us properly, but wholly with you and those who you have brought into this case, should be settled. There are certainly some gentlemen left in your profession with honesty and ability to adjust all your conflicting interests. We desire to avail ourselves of our interest or half of the result and you yours, and that no further impediment be placed in our way. We are advised by good lawyers here that you, having substituted Dr. Porter and assigned our contracts, that, having a power coupled with an interest, we would be safe in giving him power to close up the matter; but law and justice are not always the same thing, and we are determined to do nothing unjust or inequitable to any one in this or any other matter; but this must be adjusted. It is due to yourself and us. We all wish to avail ourselves of the award—you told me you did. We confidently hope you will see, with us, the necessity of closing this. We said nothing to Dr. Porter, but, after a night's thought, we have

thought best to write him a letter similar to this, which we have done to-day, and advised him that we have written to you. I am very sorry that the negotiations proposed and attempted a few days since looking to the adjustment of this unfortunate difficulty proved a failure. Don't let the matter rest in this doubtful condition, but "try again," and I doubt not but if, in the proper spirit of compromise, these matters of honest, but conflicting differences and interest, be submitted to some hon. attorney or attorneys as arbitrators or umpires, these differences will be fully and I trust amicably settled, so that when the award is ready for payment there will be no outside matters to settle—nothing to do but receive and receipt.

Yours truly, DAVID H. QUIESENBERRY.

31 (Copy.)

ST. LOUIS, *April* 15, 1870.

DEAR SIR: I send you the printed memorial — M. Parsons; the other two will be finished in a day or two. I intended to have had these printed in Washington, but if they are all right it is as well to have it done here; it will save a large amount of work that Peugh would had to have done. Have these examined, and if they are all right the others will be ready in a few days. Musser will start to Arkansas very soon, as I wrote you, and complete the testimony.

Yours, R. H. PORTER.

(Copy.)

At the request of Dr. R. H. Porter, I make the following statement: In the year 1869 I was passing on the street in company with Col. R. M. Rennick and met Dr. Porter, who stated to me that he was making arrangements to *prevent* the Mexican Claims Commission for indemnity for the murder of Gen. M. M. Parsons, Col. Conrow, and Col. Standish, and that he entertained no doubt of success; that he was here from Washington city on that business.

He stated to me that he wanted to get some good, reliable attorney here to assist him in collecting the evidence and taking depositions, &c. Col. Rennick and myself recommended him to employ Col. R. H. Musser, which I afterwards learned, both from him and Musser, he had done.

Subsequently I was informed by Dr. Porter that Col. Musser had taken the powers of att'y from the parties in interest to himself in his (Musser's) own name. Porter said he objected to this, and Musser said it would make no difference with him (Musser) and
32 Porter. Musser said he had a little pride in the matter of having his own name, &c., appear on the docket at Washington. Previous to this conversation I never heard of these claims; had no knowledge of them or their existence until I heard it from Dr. Porter. This conversation with Porter about what Musser said about appearing on record at Washington, &c., was a few months after I recommended Musser to Porter.

Given under my hand this 1st day of July, 1875.

WM. SHIELDS.

Sworn to and subscribed to before the undersigned, a notary public within and for the county of St. Louis, this first day of July, 1875.

C. C. STRETTER,
Notary Public.

A true copy.
January 19, 1880.

CHA'S PAYSON,
Third Assistant Secretary of State.

(Copy.)

CITY OF JEFFERSON, MO., *March 2d*, 1872.

Dr. R. H. Porter, No. 419 10th St., Washington, D. C.

DEAR SIR: Yours to Mrs. Col. A. M. Standish was read by me. I beg leave to state that I do not know anything in relation to the subject-matter of your letter; but as you refer us to gentlemen whom I know, I will proceed to investigate the matter and endeavor to do right by you. I have written to Col. Musser for an explanation. Your letter greatly embarrasses me for the reason Col. Musser has never intimated your connection with the case. He certainly has acted strangely in the premises.

Col. Musser has my obligation to himself whereby I am
33 bound to pay him part of any sum recovered, in consideration of his prosecuting the claim at his own expense.

I will endeavor to speedily disentangle myself and furnish you proper authority to act for me in the case. At the suggestion of Mr. —— ——, I hereby enclose you affidavits as to what Parsons would have realized from his practice of the law had he not been murdered.

Parsons was my partner in law and my friend, and I am very anxious to secure something for his orphan boy and widowed sister, Mrs. Standish.

Yours truly, J. S. SMITH.

A true copy.
January 19, 1880.

CHA'S PAYSON,
Third Assistant Secretary of State.

EXHIBIT R. H. P. No. 6.

S. V. WHITE, BANKER, 8 WALL STREET,
NEW YORK, *July 17th*, 1878.

Dr. R. H. Porter, 242 West Broadway, Louisville, Ky.

DEAR SIR: Your several letters found me here yesterday. I have kept the Dep't of State advised that I would be in attendance when they were ready to act, about Aug. 1st, in my two cases of Standish *vs.* Mexico & Parsons *vs.* Same. In the Conrow case you must act, as I have no regular power of substitution.

I am personally known to Mr. Evarts, and believe that when the claims are payable he will pay me in spite of the blackmailers.

Truly yours,

(Signed) S. V. WHITE.

The above is a true copy of the original letter filed in the case of Chiles *vs.* Porter *et al.*, 6703, eq. doc. 19, sup. c't D. C., and marked Exh. R. H. P. No. 6., the same being substituted for the original taken by Dr. R. H. Porter (Mar. 15, 1880).

JNO. A. CLARK, *Examiner.*

34 EXHIBIT R. H. P. No. 9.

S. V. WHITE, BANKER, 8 WALL STREET,
NEW YORK, *March* 24, 1879.

R. H. Porter, Washington, D. C.:

I will reassign all the interest I received from you for $12,000, and give you up your notes besides for more than $3,350.

Yours truly,

(Signed) S. V. WHITE.

EXHIBIT J. A. C. No. 4.

Know all men by these presents that Mary Ann Conrow, widow and relict and executrix of Aaron A. Conrow, deceased, and guardian of —— ——, have made, constituted, and appointed, and do by these presents make, constitute, and appoint, Richard H. Mus-
35 ser, of the city and county of St. Louis and State of Missouri, my true and lawful attorney and agent, for me — in my name, room, and stead, and in behalf of my said children and wards to prosecute and solicit before the joint commission of the United States of America and the Republic of Mexico certain claims held by me and my said children, and my said agent and attorney-in-fact is authorized and empowered to prosecute in my name and solicit for the allowance of said claim — in every particular do and perform such acts as I could or would do if myself personally present; to receipt for money, pay all expenses, and make such compromises and negotiations relating thereto as in his judgment he may deem best.

And my said agent and attorney-in-fact is further hereby fully authorized and empowered to make, constitute, and appoint, by substitution, such other agents or attorneys-in-fact as to him may seem proper, who shall have by reason — and under the said appointment full power and authority, to the extent hereinabove granted, to act for me. This power is hereby declared to be irrevocable and coupled with an interest.

Hereby ratifying and confirming all and singular the acts and deeds of this my said agent and attorney-in-fact, I have hereunto set my hand and seal this 10th day of December, A. D. 1869,

[SEAL.] MARY ANN CONROW.

STATE OF MISSOURI, } ss:
County of Ray, }

Be it remembered that Mary Ann Conrow, widow of the late Aaron H. Conrow, deceased, who is personally known to the undersigned justice of the peace within and for the county aforesaid to be the person whose name is subscribed to the foregoing instrument or power of attorney, — and acknowledged that she executed
36 and delivered the same as her act and deed for the uses and purposes therein specified.

Given under my hand this 10th day of December, A. D. 1869.

(Signed) DAVID A. QUIESENBERRY, *J. P.*

ST. LOUIS, *July 4th*, 1870.

Richard H. Porter is substituted and authorized to act under the powers hereinabove given.

R. H. MUSSER.

WASHINGTON CITY, D. C., *May* 17, 1872.

The original instrument of writing or power of attorney now before me having been carefully read and compared with the foregoing, I certify the same to be a true and genuine copy thereof.

[SEAL.] C. E. RITTENHOUSE,
Notary Public.

Know all men by these presents, that I, Mildred Standish, widow and relict and executrix of Austin M. Stanton, deceased, and guardian of Richard Adolphus Standish, Austin D'Arcy Standish, have made, constituted, and appointed, and do by these presents make, constitute, and appoint, Richard H. Musser, of the city and county of Saint Louis, State of Missouri, my true and lawful attorney-in-fact and agent, for me and in my name, room, and stead and on behalf of my said children and wards to prosecute and solicit before the joint commission of the United States of America and the Republic of Mexico certain claims held by me and my said children, and my said agent and attorney-in-fact is authorized and empowered to prosecute in my name and solicit for the allowance of said claim, in every particular — do and perform such acts as I could or would do if myself personally present; to receipt for
37 money, pay all expenses, and make such commissions and negotiations relating thereto as in — judgment he may deem best.

And my agent and attorney-in-fact is further hereby fully authorized and empowered to make, constitute, and appoint by substitution such other agents and attorneys-in-fact as to him may seem proper, who shall have by reason — and under the said appointment full power and authority, to the extent hereinabove granted, to act for me.

This power is hereby declared to be irrevocable and coupled with an interest.

Hereby ratifying and confirming all and singular — acts and deeds of this my said agent and attorney-in-fact, I have hereunto set my hand and seal this — day of ——, A. D. 1869.

[SEAL.] MILDRED STANDISH.

STATE OF MISSOURI, } *sct:*
Cole County, }

Be it remembered that Mildred Standish, personally known to me, a notary public for the county aforesaid, to be the person whose name is signed to the foregoing instrument of writing as a party thereto, personally appeared before me and acknowledged the same to be her act and deed for the purpose therein mentioned.

In testimony whereof I hereunto set my hand and notarial seal this 4th day of December, 1869.

[SEAL.] P. T. MILLER,
Notary Public.

SAINT LOUIS, MO., *July 4th*, 1870.

Richard H. Porter is authorized to act and substitute under the powers hereinabove given.

R. H. MUSSER.

38 EXHIBIT J. A. C. No. 4.

SAINT LOUIS, MO., *Jan'y* 7, 1870.

Dr. R. H. Porter, care F. H. Porter, 132 E. 29th St., N. Y.

DEAR SIR: All three of the cases, Mrs. Standish, Mrs. Conrow, Gen'l Parsons' son, are referred to the joint commission *and* the treaty between the United States and Mexico. I have been unable yet to find Col. Williams; everything has been done that I can — her. It is important that the arrangements shall be made for hunting up and taking the testimony. I wish you were here, as I have so many engagements I cannot give attention to them all and go away to hunt up witnesses. I shall get the statement of Gen'l Clark in a few weeks, which is fuller than I thought it would be. If I can only find Williams I can make full proofs without sending to Mexico. I learn from Governor Reynolls that there will be proofs of claims enough made to purchase the States of Sonora, Simalva, and Durango.

It is of the first importance to me to have some money; let me hear from or see you.

Yours, R. H. MUSSER.

EXHIBIT J. A. C. No. 5.

SAINT LOUIS, MO., *Feb'y* 2*d*, 1870.

Dr. R. H. Porter.

DEAR SIR: I have had no advices from you of late. I have at last found Col. Williams, at Macon, Ga. I will soon, with good luck,

have his statement. I have also found Capt. Siler, a Federal officer, by whom I can prove similar facts; I have made his arrangements for his statements. I will take Gen'l Clark's myself next week.
39 All this involves expenses, and I now need your assistance.
The powers of att'ys and contracts I have are full and complete—powers irrevocable. As soon as I get the proofs and memorials all will be ready and complete.

I am anxiously awaiting to hear from you.

Your ob't serv't,

R. H. MUSSER.

EXHIBIT J. A. C. No. 6.

SAINT LOUIS, MO., *Feb.* 17, 1870.

Dr. R. Porter, Washington:

I found your several letters on my return home. I have been to Howard county and taken the depositions of General John B. Clark, which is fuller and better than I thought. I find from circular sent me that the time for filing proofs is extended to June 1, 1870, and for filing memorials. I look with anxiety for your further letters and for your arrival.

Your ob't serv't,

R. H. MUSSER.

Power of Attorney.

Know all men by these presents that—, S. Kearney Parsons, son and heir-at-law of M. Monroe Parsons, deceased, of Jefferson city, in the State of Missouri, have made, constituted, and appointed, and by these presents do make, constitute, and appoint, Richard H. Porter, of Washington city, D. C., my true and lawful attorney, irrevocable, for me and in my name, place, and stead, hereby annulling and revoking all former powers of attorney or authorizations whatever in the premises, to prosecute before the joint commission of the United States of America and the Republic of Mexico a certain claim now pending before that commission for the killing and robbing of my father, M. Monroe Parsons, in the Republic of Mexico, and,
40 being now of lawful age to act in my own behalf, I hereby especially revoke and annul a power of attorney heretofore given to one R. H. Musser, of St. Louis, Missouri, bearing date the 20th day of December, 1869, by Jackson L. Smith, of Jefferson city, Missouri, then the curator of my estate, and I also hereby revoke and annul any and all other powers of attorney which the said Jackson L. Smith may have given to any other person or persons whomsoever, and to, from time to time, furnish any further evidence necessary or that may be demanded, giving and granting to my said attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises as fully, to all intents and purposes, as I might and could do if personally present at the doing thereof, with full power of substitution and revocation, and to receipt and sign all

vouchers, hereby ratifying and confirming all that my said attorney or his substitute may or shall lawfully do or cause to be done by virtue hereof.

In witness whereof I hereunto set my hand and seal this twelfth day of March, eighteen hundred and seventy-four.

[L. S.] S. K. PARSONS.

Two witnesses who can write:
F. M. WINSTON, JR.
N. CALLAN.

(A.)

DISTRICT OF COLUMBIA, *County of Washington*, } *ss:*

Be it known that on this twelfth day of March, in the year eighteen hundred and seventy-four, before me, the undersigned, a notary public in and for said county and District, personally appeared S. K. Parsons, to me well known to be the identical person who executed the foregoing letter of attorney, and, the same having been first fully read over to him and the contents thereof duly explained, acknowledged the same to be his act and deed, and that I have no interest, present or prospective, in the claim.

41

In testimony whereof I have hereunto set my hand and affixed my seal of office the day and year last above written.

[SEAL.] N. CALLAN,
Notary Public.

This agreement, made and entered into this 12th day of March, 1874, by and between S. Kearney Parsons, son of Monroe M. Parsons, deceased, party of the first part, and Richard H. Porter, of Washington city, party of the second part, witnesseth:

That it is agreed by and between the parties to this agreement, severally subscribed thereto, that the said party of the second part is employed and empowered to prosecute under the joint commission between the United States of America and the Republic of Mexico the claim of S. Kearney Parsons, son and heir of M. M. Parsons, deceased, against the said Republic of Mexico. The said party of the second part is to pay all expenses and to receive half of the net proceeds of said claim, after deducting the expenses of the said prosecution.

In witness whereof we have set our hands and seals this day and year first above written.

[SEAL.] S. K. PARSONS.
[SEAL.] R. H. PORTER.

Witnesses: These men live—
J. M. WINSTON, JR., Jefferson City, Mo.
S. E. NEWGENT, Kansas City, Mo.

(B.)

42 A.

Know all men by these presents that —, Mildred Standish, executrix of Austin M. Standish, deceased, of Jefferson City, in the State of Missouri, has made, constituted, and appointed, and by these presents do make, constitute, and appoint, Richard H. Porter, of Washington city, D. C., my true and lawful attorney, irrevocable, for me and in my name, place, and stead, hereby annulling and revoking all former powers of attorney or authorization whatever in the premises, to prosecute for me and my children, Richard Adolphus Standish, Aaron Daucy Standish, and Monroe Parsons Standish, a claim now before the joint commission of the United States and the Republic of Mexico, now sitting in the city of Washington D. C., for the murdering and robbing of my late husband, Austin M. Standish, in the Republic of Mexico, and to, from time to time, furnish any further evidence necessary or that my be demanded, giving and granting to my said attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises as fully, to all intents and purposes, as I might or could do if personally present at the doing thereof, with full power of substitution and revocation, and to receipt and sign all vouchers, hereby ratifying and confirming all that my said attorney or his substitute may or shall lawfully do or cause to be done by virtue hereof.

In witness whereof I hereunto set my hand and seal this eighth day of May, eighteen hundred and seventy-four.

[SEAL.] MILDRED STANDISH.

Two witnesses who can write:
GUS. A. HAGER.
J. E. GRIESHAMMER.

43 STATE OF MISSOURI, } ss:
County of Cole, }

Be it known that on this 8th day of May, in the year eighteen hundred and seventy-four, before me, the undersigned, a clerk of the county court in and for said county and State, personally appeared S. Mildred Standish, to me well known to be the identical person who executed the foregoing letter of attorney, and, the same having been first fully read over to her and the contents thereof duly explained, acknowledged the same to be her act and deed; and that I have no interest, present or prospective, in the claim.

In testimony whereof I have hereunto set my hand and affixed my seal of office the day and year last above written.

W. H. LUSH, *Clerk.*

Fred. K. Porter is substituted and authorized to act under the powers given to me in the within power of attorney,

R. H. PORTER.

Witnesses:
L. M. CLOSS,
CLAXTON CHERY.

(Cancelled.)

B.

This agreement, made and entered into this the eighth day of May, 1874, by and between Mildred Standish, widow and relict and executrix of Austin M. Standish, deceased, and guardian of Richard Adolphus Standish, Austin D'Arcy Standish, and Monroe Parsons Standish, infant heirs of Austin M. Standish, of the county of Cole, and State of Missouri, party of the first part, and Richard H. Porter, of the city of Washington, D. C., witnesseth: That it is agreed by and between the parties to this agreement, severally subscribing thereto, that the said party of the second part is employed and em-
44 powered to prosecute under the joint commission between the United States of America and the Republic of Mexico the claim of the said Mildred Standish, as widow, executrix and guardian for her children, against the said Republic of Mexico.

The said party of the second part is to pay all expenses and receive half of the net proceeds of the said claim, after deducting the expenses of said prosecution.

Witness our hands and seals this day and year above written.

[SEAL.] MILDRED STANDISH.
[SEAL.] R. H. PORTER.

Witnesses:
S. K. PARSONS.
T. M. WINSTON, JR.

For and in consideration of the sum of — to me paid by —— ——, receipt whereof is hereby acknowledged, I have transferred and assigned all my right, title, and interest to the within contract.

R. H. PORTER.

No. 70.

UNITED STATES OF AMERICA,
DEPARTMENT OF STATE.

To all to whom these presents shall come, Greeting:

I certify that the paper hereto annexed is a true copy from the records of this Department.

In testimony whereof I, Frederick T. Frelinghuysen, Secretary of State of the United States, have hereunto subscribed my name and caused the seal of the Department of State to be affixed.

45 Done at the city of Washington this 25th day of January, A. D. 1882, and of the Independence of the United States of America the one hundred and sixth.

[SEAL.] FRED'K T. FRELINGHUYSEN.

No. 385, Standish *vs.* Mexico.
No. 392, Conrow *vs.* Mexico.
No. 397, Parsons *vs.* Mexico.

DECEMBER 21ST, 1870.

DEAR SIR: I have your favor of the 15th inst. and reply that printed memorials have been filed in all of the above cases, but no briefs. Nos. 385 and 392 will be called for hearing at the expiration of four months from November 1, 1870, and No. 397 at the expiration of four months (4 mos.) from January 1, 1871.

Very respectfully, RANDOLPH COYLE, *Sec'y.*

R. H. Porter, Esq., St. Louis, Mo.

Musser charges that I took the original powers of attorney from his office in August, 1870; that could not have happened, for I was not in St. Louis from July 4, 1870, until some time in September. I had them with his full knowledge and consent long before August, 1870, and Musser had no interest in them. He had no money to prosecute the cases or credit on which to get money. He never pretended to be attorney until I had largely performed the labor. For the work he did I well paid him at the time. The powers of attorney were made for me and not for Musser. The work done in the preparation of the cases I did or caused to be done. The money expended in the cases was expended by me. I furnished all the money. Any work done by Musser was at my request, for me and was paid for by me.

46 When Pike & Johnson, through Musser, came into the cases everything that was necessary in the cases for judgment had been done.

I was in New York in January or February, 1877, trying to raise some money upon judgments upon Mexican claims. I had known White slightly for a month or so before that, but had had no business transactions with him. At the suggestion of Gallaher, I went with him to see White, and talked with him about borrowing some money upon the security of the Parsons claim. He said he could not let me have any money unless I would take a house in Brooklyn. I went to look at the house and concluded that I could not take it, and so informed him. A week or ten days after Gallaher came to me and said he could make an arrangement with White to get $2,000 for a short time upon the security of the Parsons claim.

I then went with Gallaher to see White; I told him what Gallaher had said. He then agreed to loan me $2,000 upon the security of the Parsons claim for four months. I delivered to Mr. White the certificate from the State Department certifying the award in the Parsons case, and gave him a note with a power of attorney to collect or to sell the same at public or private sale, at the option of White, upon the non-performance of my promise to pay after five days.

notice of time, place of sale, etc. The original paper is on file in the State Department, but a certified copy is herewith filed, marked Exhibit No. 1, and it is made part of this deposition.

EXHIBIT No. 1.

(2,000.) NEW YORK, *February 1st*, 1876.

Four months after date I promise to pay to S. V. White or
47 order two thousand dollars, for value received, with interest at the rate of 7 per cent. per annum, having deposited with him as collateral security assignment of one-half of claim of $50,500, S. Kearney Parsons *vs.* Mexico, rendered by the umpire in joint commission between the U. S. and Mexico, with power of attorney to collect same and with authority to sell the same at the broker's board or at public or private sale or otherwise, at option, on the non-performance of this promise, giving five days' notice of place and time of sale through a newspaper printed daily in New York city.

R. H. PORTER.

DEPARTMENT OF STATE, *December* 22, 1880.

I certify that the above is a true copy of note on file in this Department.

CHAS. PAYSON,
Third Assistant Secretary.

At the same time I entered into an agreement with Gallaher to leave with White $1,000 out of the loan to be used by Gallaher for stock speculations through White. A copy of my agreement with Gallaher, marked Exhibit No. 2, is herewith filed and made a part of this deposition.

EXHIBIT No. 2.

NEW YORK, *Feb. 2d*, 1876.

Received this day of Dr. R. H. Porter, of 242 Broadway, Louisville, Kentucky, the sum of nine hundred dollars, which amount I have deposited with S. V. White, a broker, of No. 8 Wall St., to my credit, to be used by me in speculating in the stock market for said Porter's benefit and my own as follows—that is to say, I am authorized by said Porter to risk the amount as aforesaid, with the understanding between him and myself that as fast as I may real-
48 ize any profits on the account I am to place one-half of said profits to the credit of said Porter on the books of said broker, S. V. White, the other one-half to go to my own benefit. After I shall have placed the sum of one thousand dollars to the credit of said Porter, then I am to have all of the profits, if any, growing out of any stock operations on said account.

It is further understood that when I shall have also have placed to my own credit with said White the sum of $1,000, then the said Porter is to be at no other risk in said account growing out of any stock operations as aforesaid.

R. H. GALLAHER.

Mr. White gave me $1,100, out of which I gave Gallaher $50 and left $900 with White for stock operations aforesaid.

I never got any dividends from this money; but, as I understand, Gallaher lost $600 of it in speculating, and the remaining $300 White appropriated to an indebtedness which Gallaher owed him, so that I got in fact out of this loan but $1,050.

With the advice of White I gave a Mr. Martin a power of attorney to sell the Parsons claim or to raise for me more money upon it so that I could pay Mr. White.

Some time after that Martin told me he could get a house in New York worth $20,000 (mortgaged for about $8,000) and $5,000 in money. I told him I would trade; but I found out he was deceiving me, as it was a house in Brooklyn. I thought it might be White, so I called upon him. He told me that Martin was trading with him. I replied that I did not want his house. He had offered me the house before that and seemed anxious to get it off his hands. I went to see it with a friend to make the trade. Martin seemed
49 very determined to get me to trade. He urged me to it. He said he had made the trade with White, and as he was my broker I would have to carry out the bargain.

I learned that Martin and the one assisting him would make $500 more than I was informed of. Then I went to White and requested him to refuse to make the trade with Martin. By so doing I compromised with White by agreeing to take the house and doing the best I could with it. After much trouble I succeeded in getting my papers from Martin and gave them to White. I then entered into a verbal agreement with White, by which I was to take the house, subject to the encumbrances upon it, at $3,000; but afterwards, finding that the encumbrances amounted to more than White supposed, he told me to take the house and do the best I could with it, and he would make it all right with me. I realized, in fact, about $500 from it. He was also to let me have money, from time to time, as I should need it, and he gave up to me the $2,000 note. He subsequently let me have, I think, about $3,500 in money. I made an absolute assignment of the Parsons claim to him and gave him a power of attorney to collect the money from the State Department. The aggregate amount of money received, including what I got out of the house, according to my best recollection, was from $7,000 to $7,500. Although the assignment was absolute on its face, it was understood and agreed between us that these sums were loans to me, and Mr. White, when he collected the money from the State Department, was to retain the money due him and pay himself liberally for his trouble and the use of his money and to account to me for the balance. I continued to get money from Mr. White upon the security of my Mexican claims.

50 On November 29, 1876, I borrowed from Mr. White $500; on the 31st of March, 1877, I borrowed from him $200, and on the 19th of June, 1877, he gave my son, in New York, a check for $4,275.25, and I made an assignment of the Standish claim to White and gave him a power of attorney to collect it. This assignment, although absolute on its face, was like the other transactions with reference to the Parsons case—a borrowing instead of selling. I did not intend to sell the claim absolutely to Mr. White, and did not understand that I was doing so, but expected him to collect the money and then repay himself for his money and trouble and account with me for the balance. I produce here the two letters from White to me in reference to the Standish claim, marked Exhibits A and B. The letters are both in the handwriting of White and were received by me from him. I know his handwriting well.

EXHIBIT A.

NEW YORK, *January* 26, 1877.

R. H. Porter, M. D., St. Marc Hotel.

DEAR SIR: I cannot make you any promise of any money on your security. If I do anything it will be on the basis of taking off that $1,500 second mortgage on the Brooklyn property. I see that they make a personal claim against me for the amount as having accepted a deed which conveyed it subject to that mortgage, and if I do anything it will be to remove that claim, and about that I will see in due time. When are you coming to New York?

Truly yours, S. V. WHITE.

EXHIBIT B.

NEW YORK, *May* 14, 1878.

R. H. Porter, 614 Thirteenth street, Washington, D. C.

51 DEAR SIR: The transaction in regard to the Mildred Standish claim was that, November 29, 1876, I let you have $500; on March 31 I let you have $200 more, in Jersey City, and on June 19, 1877, I drew a check for $4,275.28 to the order of your son, being $5,000, less the $700, and $28.72 interest.

The check was No. 65723, on Bank of North America, N. Y.

Truly yours, S. V. WHITE.

I had given Colonel Joseph B. Stewart an order on Mr. White for $500, to be paid if White should sell the judgment. This order was to be paid out of the Parsons judgment. I learned last spring from Colonel Stewart that the order had not been paid. Being in bad health, and having confidence in White, I left everything to him in drawing up papers. I had no idea of selling the Parsons judgment unless I could get at least one-half it called for.

I never understood I was selling it to White. In 1879 I borrowed $1,500 more of Mr. White. One Col. Million, of St. Louis, had gotten

hold of my papers in the Standish claim. I owed him some money, and therefore I borrowed to pay him and to get back the papers.

Mr. White suggested that as he had a relative there who was a lawyer that I had better let him send the money, as Million and his attorneys might be overcharging me, which was the case.

I had faith in White, and that he would deal fairly with me and pay me when he collected my money at the State Department, until I learned that he had been dealing with Musser and Pike & Johnson, purchasing a pretended interest, I having frequently charged him that they had no interest. I then revoked all powers of attorney to Mr. White. See Exhibits 4 and 4'.

52 EXHIBIT 4.

Powers of Attorney.

Know all men by these presents that I, Richard H. Porter, of Louisville, in the State of Kentucky, have made, constituted, and appointed, and by these presents do make, constitute, and appoint, S. V. White, of New York city, my true and lawful attorney, irrevocable, for me and in my name, place, and stead, hereby annulling and revoking all former powers of attorney or authorizations whatever in the premises, to attend to the settlement of the Mary Ann Conrow claim before the State Department. I hereby substitute him to do all and everything for me that I could or would do if there in person, to receive the first payment made upon this claim only and to, from time to time, furnish any further evidence necessary or that may be demanded, giving and granting to my said attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises as fully to all intents or purposes as I might or could do if personally present at the doing thereof, with full power of substitution and revocation, and to receipt and sign all vouchers, hereby ratifying and confirming all that my said attorney or his substitute may or shall lawfully do or cause to be done by virtue hereof.

(National seal.)

In witness whereof I set my hand and seal this 20th day of July, 1878.

[SEAL.] R. H. PORTER.

Two witnesses who can write—
WM. B. KERLIN, JR.
JOHN C. DOUBT.

53 STATE OF KENTUCKY, *County of Jefferson,* } *ss:*

Be it known that, on the 20th of July, in the year 1878, before me, the undersigned, a notary public in and for said county and State, personally appeared Richard H. Porter, to me well known to be the identical person who executed the foregoing power of attorney,

and, the same having been first fully read over to him and the contents thereof duly explained, acknowledged the same to be his act and deed, and I have no interest, present or prospective, in the claim.

In testimony whereof I have hereunto set my hand and affixed my seal of office the day and year last above written.

WM. B. KERLIN, JR.,
Notary Public, Jefferson County, Kentucky.

EXHIBIT 4'.

Know all persons by these presents that I have this day revoked the power of attorney I heretofore gave S. V. White, of New York city, to attend to the settling of the Mary Ann Conrow claim before the State Department, which authority authorized him to receive and receipt for the first payment upon this claim only. Now, therefore, as this power of attorney is likely to be misunderstood, I therefore revoke all authority given S. V. White or any one else in this case.

Given under my hand and seal *this* Washington, D. C., May the 31st, 1879.

[SEAL.] RICHARD H. PORTER.

Mr. White wrote me he would take $12,000 for his interest and reassign to me all interest I had given him in these claims. I was willing to give it and asked the Secretary of State to pay him. He replied he would pay the money out on our joint receipt. I
54 had no thought of selling a judgment that called for $25,000 for $7,000 nor one for $5,000 which called for $21,000.

These judgments were mine, and had cost me much money, time, and trouble to prosecute them.

But for my bad health I would not have made arrangement with any one. I was afraid, however, I would not be able to give them the attention they would require. Having confidence in Mr. White, I left everything pretty much to him to fix, that he might do the best for us both that could be done, always believing that he would do me justice.

I signed everything he asked me to sign, and came here twice to receive my money when I supposed it would be paid to him, and had no suspicions until I learned on my last arrival of his purchasing the pretended interest of Pike & Johnson.

It was too evident that these men had no interest to sell and too patent that White knew it when he made his pretended purchase, for he knew I had the original powers and contracts, besides the subsequent powers and contracts, from Mrs. Standish and S. K. Parsons; also the promise in writing from Mrs. Mary Ann Conrow. I had notified the claimants of Musser's bad conduct, and had received assurances from them that they would protect me. I refer to letters of David Quiesenberry and Jackson L. Smith, guardian of Parsons and friend and attorney for Mrs. Standish. See Exhibits C and E.

EXHIBIT E.

No. 56.

UNITED STATES OF AMERICA,
DEPARTMENT OF STATE.

To all to whom these presents shall come, Greeting:

I certify that the paper hereto annexed is a true copy from the files of this Department.

55 In testimony whereof I, Frederick T. Frelinghuysen, Secretary of State of the U. S., have hereunto subscribed my name and caused the seal of the Department of State to be affixed.

Done at the city of Washington this 18th day of Jan'y, A. D. 1882, and of the Independence of the United States of America the one hundred and sixth.

[SEAL.] FRED'K T. FRELINGHUYSEN.

RICHMOND, MO., *March 13th*, 1882.

Dr. R. H. Porter, Washington, D. C.

DEAR SIR: On the 2nd day of this month my daughter, Mrs. Conrow, received a communication from you, and also one from —— Winder, informing her of the part you had taken in her case before the joint commission on the part of the United States and the Republic of Mexico. Up to that time we supposed R. H. Musser, of St. Louis, Mo., was conducting the matter himself, and knew not that any one else was interested, much less that he was acting for you. He never informed my daughter that he had an assistant, and we were much surprised at the information received from said letters and feared something was wrong. I immediately sent a brother of mine with the papers to Mr. Musser, and on my brother's return I learned that you had the original power of attorney and contract in your possession, and that you and Musser were not conducting the case harmoniously. This I much regret, and fear unless you can settle the apparent misunderstanding and prosecute the claim vigorously all will be lost, and from the information you give me I think, if the case is properly conducted, Mrs. Conrow may get the means of a living and the parties conducting the case get remunerating fees.

56 I learn from Musser's letters that he has been corresponding with Col. R. W. Johnson and Pike, attorneys-at-law, Washington city, D. C., and in a letter from Col. Johnson to Musser he, Johnson, says that he learns a Mr. Peugh is in the case, but does not mention the name of Winder; says "if it — still your desire he will now accept the offer and share equally the fees with you, provided you revoke the prior power of attorney and have new ones executed joining us with you by the parties." On looking over your letter and that of Mr. Winder — the suggestion that a new power of attorney be signed and forwarded, thereby revoking all others, sending a —, and also said that you sent a — contract, also to be executed. The power of attorney came, but no contract. This suggestion we

could not comply with until the old contract with Musser was done away with, for he was entitled under his contract to one-half of the award, if any, and to make another contract with a different party, giving him one-half of the award. You see by that arrangement we would have contracted the whole of the claim away and the little sum of nothing be left. I much regret that you did not notify us of your relation to this matter at an earlier date, so that we would have had time to, at least, make an effort to reconcile. If you have the papers properly assigned to you by Mr Musser I cannot see why that is not sufficient at least for the present; and if the commission should make an award Congress will pass an act touching the distribution of the funds, and then Mr. Conrow will be fully prepared to do whatever may be required of him in the premises. In the meantime let me beg you to suffer no little misunderstanding to thwart the object contemplated. I also write a letter to our mutual friend, Hal. A. Camnys, asking his aid in the adjustment of the difficulties and his counsel in this matter as a friend of the father-
57 less and widow. I hope you will see Messrs. Pike & Johnson at once and learn of them what part they are assuming in the matter, if any, and propose to them to assist in the case if you think best, with the understanding that the fees received, if any, are all to be distributed to the attorneys in proportion to the amount of labor preformed. If in the meantime it becomes absolutely necessary to have a new power of attorney all we ask is that the old one be returned, and we will forwarded others without delay. I hope the interest I feel in the matter will be a sufficient apology for this hasty letter. I hope to hear again from you soon, and learn that all is right, and prospects good for a nice award, and consequently good fees.

Your ob't servant, DAVID H. QUIESENBERRY.

Dr. R. H. Porter, Washington, D. C.

All the proof that had been gotten was by me or through me and all the briefs and arguments had been made by my counsel (Col. Winder), and I paid for them and for the printing of them, too.

I can say on oath and in presence of God and man all that ever was done material and necessary from the commencement of these claims before the commission up to the rendition of the judgment therein was done by me or for me and my request and was paid for by me.

And in all other like cases there was, I am informed, no judgment rendered for more than $12,000 by the umpire.

Musser was never here until long after the judgments were rendered. Pike & Johnson had nothing to do with the cases until all material labor had been done in them that could be done.

58 The memorials, proofs, briefs, and arguments had all been filed and the cases submitted before they had anything to do with the cases.

RICHARD H. PORTER.

SAMUEL C. POMEROY, a witness for the plaintiff, being first duly sworn, deposes and says as follows:

My name is S. C. Pomeroy, living temporarily in Washington, at 1329 K St. N. W. At present I am a laborer. I was for 12 years a member of the U. S. Senate from the State of Kansas. I have known Richard H. Porter for about 25 years. I became acquainted with him on the Kansas border of Missouri, and particularly in Jackson county. It was during our border troubles in Kansas in 1854 and in 1855.

Porter was then engaged in freighting, and had large teams. He assisted me in buying cattle and horses, which were required at Lawrence, Kansas.

The controversy there being between the free-state and the pro-slavery men, Dr. Porter and his brother both assisted me. In that way I became acquainted with him, and felt under obligations to him.

Question 1. What was Dr. Porter's standing there in the community where he lived?

Answer. Dr Porter stood well; was regarded perfectly responsible, and his word was as good as any man's in the community.

Q. 2. What was his credit?

A. He had good credit, and was very highly esteemed.

Q. 3. Please state whether you were ever called upon by Dr. Porter to assist him in any way in the prosecution of any claims against Mexico before the mixed Mexican and American commission; and, if so, please state what the cases were; what you did, if any-
59 thing, in aid of procuring awards, and all you may know with regard to said cases.

A. I was so called upon about the year 1875. He stated that there were three cases before the commission of men from Missouri who had been killed in Mexico; the names were Parsons, Standish, and Conrow; two of the cases I had some acquaintance with, and I slightly knew one of the parties. Mr. Porter explained fully to me the cases, and brought me a printed brief made by Mr. Chas. H. Winder. Being satisfied that they were meritorious, I followed the cases to the umpire, Sir Edward Thornton. I explained to him the high standing of General Parsons, whom I knew, and spoke of the orphan children being dependent. I urged that an unusual award ought to be given in these cases on that account. I had several visits to the house of the British legation upon this matter; at my last visit Sir Edward Thornton had the papers before him. I remember distinctly that the papers were on his table. I learned that the usual award had been about $10,000 for killing a man. I remonstrated that such an award would be no compensation for the killing of such men, who were so valuable to their families. We discussed the matter at great length. I left the umpire impressed with the belief that a much larger award would be conceded in these cases, and informed Mr. Porter at the time about what they would be and the time when they would be announced. I learned subsequently that what I had stated proved to be true.

Q. 4. What were your personal relations with Sir Edward Thornton up to that time?

A. They were very good, indeed; perhaps, I might say, better than I have ever enjoyed with any other foreign minister.

60 Q. 5. What, in your opinion—to what extent—were the awards in these cases influenced by your presentation of them to the umpire?

A. When I represented to the umpire that Mr. Parsons had held high offices in the State of Missouri and had been spoken of as a candidate for Governor, and that Standish was a civil engineer of high character and standing and a relative by marriage of Parsons, and that Conrow was a lawyer of eminence and ability, it seemed to make a decided impression, and I was told that such circumstances would be considered in making up the awards.

Q. 6. Please state all of the persons who were represented in the prosecution of these cases, so far as you know.

A. I understood distinctly that Dr. Porter had these cases and had written contracts to prosecute them, and that Mr. Winder had been employed by Dr. Porter; I never heard of any other persons connected with their prosecution until long after the awards were rendered.

Q. 7. What, if anything, did you hear of Musser or of Pike & Johnson in the prosecution of these cases—and I will include Peugh and Rittenhouse?

A. I never heard of any of them until long after the awards had been rendered.

Q. 8. State, if you please, whether you ever, at the solicitation of Dr. Porter and in his interest, made any effort at the State Department to procure the payment of his fees; and, if so, please state what you did and what you learned there.

A. I went several times to the Department of State and was referred to a gentleman by the name of O'Connor, whom I understood to be the law clerk of the State Department. I told him I came in

61 the interest of Dr. Porter and at his solicitation to inquire about the payment of the awards in these cases above referred to. I was told that Dr. Porter was the attorney in the cases, and that they had been prosecuted to a successful result, but that no payment could be made until the Mexican government deposited the money for the purpose. My understanding was that when the awards were paid Dr. Porter would get his fees, which I understood to be one-half of the whole amount. Dr. Porter was the most persistent and diligent in coming to me—I venture more than fifty times—not only during the pendency of the cases before the awards, but since—very often since.

S. C. POMEROY,
1339 *K Street, Washington, D. C.*

And afterward, on the 29th day of August, 1882, there was filed in said cause the following deposition in the words and figures as follows, to wit:

DISTRICT OF COLUMBIA, } ss:
County of Washington, }

In the Supreme Court of the District of Columbia. In Eq.

RICHARD H. PORTER }
vs. } No. 7536.
STEPHEN V. WHITE. }

Be it remembered that at an examination of witnesses on behalf of the complainant, begun and held on the twenty-sixth day of November, 1881, and continued from — time, by adjournments within noted, until the 29th day of November, 1881, when the within deposition was taken on behalf of the complainant, I, Edwin Forrest, an examiner in chancery, did cause to be personally present at the office of S. S. Henkle, Esq., No. 460 Louisiana avenue northwest, in
62 the city of Washington, in said District, the within-named witness, due and sufficient notice having been given in writing to opposite counsel, as appears by a copy of same herewith attached and returned by me with the deposition.

EDWIN FORREST,
Examiner in Chancery.

LAW OFFICE, No. 328 4½ STREET,
WASHINGTON, D. C., *Nov.* 22, 1881.

Stephen V. White, No. 8 Wall street, N. Y.

DEAR SIR: Please take notice that on Saturday next, at one o'clock p. m., at the office of Gen'l S. S. Henkle, before Examiner Mandeville, we will proceed to examine such witnesses as may then and there be present on behalf of Richard H. Porter *vs.* Stephen V. White, in equity.

S. S. HENKLE.
J. J. JOHNSON,
Sol'rs for Porter.

I certify that I wrote and placed in the mail the above notice to Mr. White.
Jan'y, 1882.

J. J. JOHNSON,
Of Counsel.

(Copy.)

In the Supreme Court of the District of Columbia. In Eq.

RICHARD H. PORTER }
vs. } No. 7536.
STEPHEN V. WHITE. }

TUESDAY, *November 29th*, 1881—twelve (12) o'clock m.

Met pursuant to adjournment.

Present: S. S. Henkle, solicitor for the complainant; no one appeared for the defendant.

Whereupon AARON VAN CAMP, a witness produced on behalf of complainant, being duly sworn according to law, was examined, and testified as follows:

63 By Gen. HENKLE:

Question 1. You have stated your name to the examiner. What is your residence?

Answer. Washington, D. C., No. 240 First street southeast.

Q. 2. What is your business?

A. Dentist.

Q. 3. State whether or not you are going out of the country.

A. I am going to the Feejee Islands as United States consul.

Q. 4. When do you expect to leave?

A. I expect to leave on the first of next month. I had thirty (30) days from the thirty-first of last month to get ready.

Q. 5. How long do you expect to be abroad, out of the country?

A. About four (4) years.

Q. 6. I want to ask you if you are acquainted with the parties to this suit?

A. I have been many years intimately acquainted with R. H. Porter, plaintiff in this suit.

Q. 7. Where did you know him?

A. I knew him first in Danville, Kentucky, in 1840.

Q. 8. Have you known him ever since?

A. Yes, sir; intimately.

Q. 9. Do you know Mr. White?

A. My acquaintance with Mr. White is very limited. I have met him in New York city, in his office, on one or two occasions.

Q. 10. State whether you have any knowledge of business transactions involved in this suit between the complainant and the defendant; and, if so, please state all that you know about it without further interrogation.

64 A. I received a dispatch from Dr. Porter, who was then in New York, in the winter of 1876—I was then in Washington, D. C.—requesting me to come to New York and assist him in transacting some business. On my arrival there he told me that he had placed some Mexican claims—some Mexican awards—in the hands of a man by the name of White, the defendant in this case, for sale, and had borrowed some money from him on these claims. He wanted me to go with him to White's office and hear the conversation that would take place in regard to the matter. I went to the office of Mr. White and was introduced to him. His office was No. 8 Wall street, just below Broadway, on the left-hand side going down. While in the office the conversation came up about Dr. Porter's borrowing several sums of money in the early part of the winter or fall of 1875. I heard different sums named. One hundred dollars ($100), two hundred dollars ($200), and five hundred dollars ($500), I think, were named, and that Mr. White held in his hands a power of attorney as collateral security. The power of attorney was to sell, if possible; if not, collect these claims for Dr. Porter as his agent.

Q. 11. Well, now, Doctor, which of these claims was that?

A. The Parsons claim was named particularly. There were other claims named; but I do not think that there was any assignment or power of attorney given, but they were talked of. White held the Parsons claim as security for advances made to Porter, and said that he would take a house situated in Brooklyn. I went there with Porter, and the house was a brown-stone front one in Brooklyn, on an avenue, I think, but I forget the name now.

65 Q. 12. Did you learn from the conversation of the parties how much money had been advanced at that time?

A. I think two thousand dollars ($2,000) had been advanced up to that time, and Porter wanted more money, and White agreed to advance him more money upon condition that he would take that brown-stone house in Brooklyn as a part of the advance. That house was subject to a mortgage, but White contended that the house was worth, over and above the mortgage, some two thousand dollars ($2,000) or three thousand dollars ($3,000), perhaps, and White wanted Porter to take that as a part of the further advance.

Q. 13. Was that transaction consummated at that time?

A. No; I do not think it was. I do not think the house transaction was. I think it was consummated after that.

Q. 14. What conversation did you hear, if anything, in regard to the assignment of these claims from Porter to White?

A. When in the office a conversation came up about an assignment, and White wanted Porter to make to him an absolute assignment of the claims. Dr. Porter objected, unless he would give him a paper back stating that the assignment was only made as a security for borrowed money. That was the Parsons claim. Mr. White answered, saying: "I do not think it is necessary to have any paper of that kind between friends. We are friends and I am your agent, and why should you have any such paper?"

I recollect that answer distinctly, because it impressed me a good deal at the time. I am under the impression that Mr. Porter

66 made the assignment to Mr. White with that understanding; that it was made to White as Porter's agent to transact this business.

A. VAN CAMP.

Sworn and subscribed to before me—

EDWIN FORREST, *Examiner.*

I, Edwin Forrest, an examiner in chancery, do hereby certify that the foregoing deposition was duly taken down by me and reduced to writing from the statements of the witness at the time and place in the caption hereof, and was afterwards by said witness read over in my presence and in the presence of such of the counsel as attended, and subscribed to before me, the said witness having been by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth touching the matters at issue in said cause.

I further certify that I am not of counsel for any of the parties to said cause or in any manner interested therein.

EDWIN FORREST,
Examiner in Chancery.

And afterward, on the 29th day of August, 1882, there was filed in said cause the following deposition on behalf of the complainant in the words and figures as follows, to wit:

RICHARD H. PORTER
vs.
STEPHEN V. WHITE. } No. — Eq. Doc.

At an examination of a witness, held before me, an examiner in chancery, at the time and place indicated in the annexed notice, personally appeared before me Albert Pike, on behalf of the complainant, who, being first duly sworn, was examined by Mr. J. J. Johnson, of counsel for the complainant, when the within
67 deposition was written down by me from the statements made by the said witness and read to him and signed by him in my presence.

Mr. J. J. Johnson appeared for the complainant; no one for def't White.

The annexed notice shows objections interposed to the testimony of said deposition by the def't, Stephen V. White, and made part of the record.

JOHN A. CLARKE, *Examiner.*

In the Supreme Court of the District of Columbia. Equity.

RICHARD H. PORTER *vs.* STEPHEN V. WHITE.

To Stephen V. White, defendant, No. 8 Wall street, N. Y.:

Please take notice that the complainant in this cause desires the evidence to be adduced in this cause to be taken orally, and will proceed to examine Hon. Albert Pike, before John A. Clarke, an examiner in chancery, at the office of said Pike, on Third street, one door above the Washington House, which latter house is on the corner of Pennsylvania avenue and Third street northwest, on Saturday next, at 11 o'clock a. m., to be used on the hearing of this cause, at which time and place you are hereby notified to attend and cross-examine said witness if you shall see fit.

Aug. 16, 1882. HENKLE & JOHNSON,
Solicitors for Plaintiff.

RICHARD H. PORTER
vs.
STEPHEN V. WHITE. } Equity.

The defendant, appearing in response to this notice for the
68 purpose of objecting to the testimony, requests the examiner to note the following objections to all questions and answers of the witness Pike.

1. Plaintiff has already taken said witness' testimony and should have exhausted such testimony in the former examination.

3. The testimony of witness is sought to vary and contradict an assignment in writing by pretended contemporaneous and oral conversations at the time of the execution of said assignment, which is in violation of the rules of evidence.

S. V. WHITE, *Defendant.*

In the Supreme Court of the District of Columbia.

RICHARD H. PORTER
vs.
STEPHEN V. WHITE. } No. — Eq. Doc.

AUG. 19, '82.

Met pursuant to annexed notice.

Present: Mr. J. J. Johnson, of counsel for complainant.

Whereupon General ALBERT PIKE, a witness of lawful age produced on behalf of the complainant, being duly sworn, deposes and says:

Examined by Mr. JOHNSON:

My name is Albert Pike; I reside in this city and am an attorney and counsellor at law; I am acquainted with the defendant, S. V. White—that is to say, I saw him once, some years ago, in the office of the firm of which I was a member, in this city, and in my room over the office.

He came from New York at that time, at our invitation, for the purpose of making some arrangements with us and Col. Richard Musser in regard to his and our interest in the fees due in
69 the three cases—Standish, Conrow, and Parsons—before the Mexican and American Commission, in which the umpire gave awards in their favor.

I was called down to the office and found him there. After talking a little about the manner in which he became interested in the fees, by advances made to Dr. Porter, and saying that he had made up his mind, after reading our statement and other papers, that he had better come down and buy us out, he inquired how much we would take for our interest in the fee; the whole fee was 50 per cent. of the amount awarded in each case. Col. Musser replied, "We will take $40,000 cash." To this Mr. White answered, "Oh, that is more than one-half the fee will come to." I then said to him, "What will you give us?" His reply was, "I haven't figured it up." I said to him, "Suppose you figure it up, then, and see what you will give." He turned around to the table near which he was sitting, made calculations a while on paper, laid down the pen, and said, "I'll give you $30,000 cash." This was just about what one-half of the fee was worth at the time in cash, deducting the interest by way of discount on the deferred payments, as I calculated it afterwards. After consulting together a few moments we and Col. Musser accepted his proposition and sold to Mr. White, for $30,000 in cash, our interest, whatever it might be, in the fee, and gave him an assignment thereof accordingly, which was delivered to him and which will speak for itself.

Q. State, if you please, what was your understanding as to wha the interest of your firm and Musser was in the fees.

A. I had read over with great care a few days before all the
70 letters and papers in our possession or of which we had copies in relation to the question between Porter and Musser for the very purpose of satisfying myself as to what Col. Musser's interest and ours was in the fees. We claimed our interest through and under Musser. My conclusion was that Musser was entitled to one-half of the fee only and Porter to the other half, and I had so told my partners, and that if the case were submitted to me as chancellor upon those papers and letters—upon all the facts—I would so decide against my own interest, and therefore I was willing to sell, and insisted that we should sell, if we could, for cash, our interest in the fee of 50 per cent. for the present cash value of the one-half of it. This is the whole story about the sale and purchase.

ALBERT PIKE.

Sworn to and subscribed before me this 19th day of August, A. D. 1882.

JNO. A. CLARKE, *Examiner.*

August 19th, 1882.—Testimony on behalf of the complainant closed before me.

JNO. A. CLARKE, *Examiner.*

Cross-examination by Jno. A. Clarke, examiner.

And afterwards, on the 2d day of Dec., 1882, there was filed in said cause the following deposition of S. V. White in the words and figures as follows, to wit:

For Plaintiff.

STATE OF NEW YORK, }
City of Brooklyn, County of Kings, } *ss:*

I, Stephen V. White, being duly sworn, do make oath and say: I reside at 210 Columbia Heights, Brooklyn, Kings Co., N. Y.; am 51 years old, nearly, and am a banker and broker, at 8 Wall St., N. Y., by occupation. I know the plaintiff and have known him
71 since Feb'y, 1876. The assignments made under which I received any title which plaintiff, Richard H. Porter, might have had in the awards of S. Kearney Parsons *vs.* Mexico and S. Mildred Standish *vs.* Mexico, respectively, on Sept. 20th, 1876, and June 14th, 1877, were not nor were either of them intended as pledges or security for the return of any loan of money whatever, either seven thousand five hundred dollars or any other or different sum.

The transactions, given in detail, by which I was induced to purchase said Porter's interest therein were the following:

On or about Feb'y 1st, 1876, one R. H. Gallaher, then and now of New York city, but formerly of Richmond, Virginia, introduced

plaintiff to me, at my office in New York, and they wanted to borrow, upon the exemplification of the record of the award of S. Kearney Parsons *vs.* Mexico and upon what purported to be original contract and power of attorney direct from Parsons to plaintiff, the sum of $2,000, one-half of which plaintiff should receive in cash and the other should be placed to the credit of Gallaher as a margin for operations in stocks, for the joint benefit, so far as profits were concerned, of plaintiff and Gallaher.

I lent the money, taking Porter's note, dated Feb'y 1st, 1876, due June 4th, 1876, taking a very informal assignment of Porter's interest in the award, not to myself, but leaving the assignee a blank. Porter drew either $1,000 or $1,050, and Gallaher had the remainder as a margin in an account, which he very promptly lost. Not one cent of the money came to me, directly or indirectly, except a few dollars commissions on purchase and sale of stocks as aforesaid,

72 which commissions were one-eighth of one per cent. on the par value of stocks bought or sold, being twelve dollars and a half for buying or selling ten thousand dollars' worth of stocks.

When the note fell due it was not paid, but, *per contra*, plaintiff seemed more in need of money than when the note was given. When I lent the money aforesaid I charged it to bills receivable on my ledger.

Both the plaintiff, as principal, and George H. Giddings, formerly of Texas, now of Washington city, as his agent, were actively enlisted in an attempt to sell the award, to pay me the $2,000 and get the balance for use in allaying a raging impecuniosity with which both were apparently affected.

About September 10, 1876, they joyfully announced to me that they had got an agreement for its sale or a loan of $5,000 on it. Meanwhile their need for money was most pressing, and they importuned me for $500 to bridge over an immediate pressing want, which appeared intensified by the glamour of the wealth which was "so near and yet so far." On September 11, 1876, I let plaintiff have $500, and charged same on my books to "transient loans." September 15, 1876, I let him have $1,500 more to further bridge over pressing necessity, and charged that sum to "transient loans" on my books, so that, in all, the plaintiff owed me $4,000 and interest, secured by pledge of his original papers and exemplification of the Parsons award, with an assignment in blank of Porter's interest.

Then the hoped-for sale or loan or whatever was to usher in the golden age of plaintiff's affluence was announced to have fallen through, and financial prospects again grew "dark as Erebus." Before that many offers of sale had been made to me at 50 per cent. of face value of award for Porter's interest, which I had steadily refused.

73 I finally offered him what he owed me ($4,000 and interest) and $3,000 additional in cash, and a brown-stone-front house on La Fayette avenue, Brooklyn, which was mortgaged for seven thousand five hundred dollars, and which I held at $12,000,

but would probably have sold for $10,000 cash if offered me, for his interest in the award.

He went and looked at the house. He told me that he consulted with a Brooklyn real estate agent or agents, and, after due consideration, he accepted it. He directed me to make the deed to his son to prevent its attachment by his creditors, which I accordingly did. I would not pay for it until he had executed an assignment to me, coupled with the substitution of myself as attorney-in-fact for Parsons, the original of which is on file in office of Secretary of State. Upon the execution of this assignment and substitution of myself as attorney I paid him $3,000 cash; gave him up his note; delivered deed for the house and lot in Brooklyn to his son, Fred. K. Porter. I then opened an account on my ledger in the name of "Mexican claim acc't," and debited it with $3,000 cash, $2,000 note to Porter, and $2,000 transient loans of Porter. On the other hand, I credited bills receivable $2,000 note of Porter, and credited transient loans $2,000 loans of Porter, which with the $3,000 cash check balanced.

The real estate was not on my business books, being an outside investment, and the price realized for that did not appear on my ledger.

There was no understanding or agreement, express or implied, then or ever afterward, that he was to have any interest further in the award assigned to me or that I should have in the land conveyed to him. He sold the real estate without consultation
74 with me and (it is needless to add) kept all the money without accounting to me or informing me what he got. I have exemplified copies of my deed to his son and of his son's deed to a Mr. Cantoni, with a letter from plaintiff himself saying that he had sold the land. I will, if requested, produce the exemplified copies of deed and the original letter.

The transaction in the matter of the assignment of plaintiff's interest in the Standish award was all conducted by correspondence. He had left his pretended title to an exemplified copy of award in that case with me. He and Giddings, whom (strange to say) the $3,000 cash had not made permanently easy in finance—he and Giddings had hawked it about Wall street till the mention of it was fairly discordant. Nobody would buy it. Nobody would lend upon it as collateral, and plaintiff, as usual, was hard pressed for just a little money.

Like a good-natured fool, I let him have at one time $500, and at another time $200, upon the faith of its pledge in my hands by an informal assignment in blank, as the other had been left, as before stated.

This money was advanced in the winter of 1876 and 1877. Plaintiff left here, or rather kept away from New York, and sent for me to come to see him in Jersey City, which I did, I think, in February, 1877, and from that time until long after the assignment was made I never saw him. In June, 1877, he was in Louisville, Kentucky, keeping up a running fire of letters in regard to the Standish award, desiring me to sell it or buy it or borrow on it or loan on it,

or do anything to give him money. These letters I have, and will produce them on the trial if desired.

75 On June 9th, 1877, I wrote him a letter, the original of which I called for to be used on the trial, or in default, I will read a letter-press copy which I have, saying I did not want the award, but if $5,000 would be of more use to him than his interest in it, I would buy it for $5,000 and deduct the $700 which he owed me, with interest, paying cash for the balance. On June 11th, 1877, he telegraphed me an acceptance, which telegram I have and will produce it, if desired, on the trial.

He also wrote me a letter, the original of which I will produce on trial, if desired, a copy of which I attach as Exhibit A.

I drew the assignment, substitution as attorney, and affidavit of performance of services and the value of same, as shown by original papers on file in Sec. of State's office, and sent to him for execution with letter accompanying it, for the original of which I ask, and in default will produce letter-press copy.

The papers were returned executed by his son, Fred. K. Porter, and he handed me letter of June 16th, 1877, — original of which I will produce, and copy of which is attached as Exhibit B. Upon receipt of papers, duly executed, I drew check No. 65723 on Bank of North America for balance of $5,000, less loans $700, interest $24.72, dated June 19th, 1877, for $4,275.28. The original check I will produce, if desired. Upon this check Fred. K. Porter drew the money in my presence, as it was necessary to identify him before the bank would pay him.

That there was any secret or open agreement or understanding, expressed or implied, that he should have any further interest in the awards from that time till the day of judgment is, to state it mildly, not true.

76 I received very voluminous correspondence from plaintiff, in which he very many times alluded to sale to me. I append copy of one as Exhibit C and will produce originals on trial.

The securities were bought at a price higher than they were worth if Porter had owned them. They had no fixed market value, either in New York or Washington. When it became known that I had bought them very many were offered me, which I declined to buy, although they stood ready to sell cheaper than I had bought. When I came to examine into the condition of the awards I found that they were all pledged in St. Louis for an amount which it cost $2,625 to set free, and an examination of the State Department disclosed that the plaintiff never had any title to either of them, and I was compelled to buy up the title of the assignees of record for $30,000, which sum also embraced payment for the award of Conrow *vs.* Mexico. All the money paid plaintiff by me was obtained from me by false pretenses, and I claim a decree for the respective sums, with interest from the date of payment, on the final trial of this cause.

Since the commencement of this suit two Secretaries of State, Hon. James G. Blaine and the present Secretary of State, have paid me

the installments then due, against the protest of said plaintiff and in opposition to and overruling his title.

S. V. WHITE.

Sworn to before me June 28, 1882.

B. F. BLAIR,
Notary Public.

EXHIBIT A.

LOUISVILLE KY *June 11th* 1877.

S V White Esq No. 8 Wall St New York

DEAR SIR: Yours 9th inst. received and contents noted. I
77 telegraphed and accepted your proposition and accepted it now. It is not necessary for me to say to you that I would not have done so if I could well have avoided it. I dont believe however that I would have done so if any one else had made the offer.

I would have tried to made some other arrangement, but you delt with me with a fairness that fiew have done therefore if I am to loose and some one is to make I don't know of any one in New York or any place else should want to make than yourself.

You will find me ready at any and all times ready to do or assist you in any way that may be in my power for your kindness to me. I hope by the time you get this to have received the papers from you for me to sign.

Since I have made up my mind to sell at your offer I am anxious to have it done as soon as possible.

Yours truly R H. PORTER

P. S. If anything should be wanted in the papers my son can correct for he is fully authorised to do any and all things I could do myself.

Yours R. H. P.

EXHIBIT B.

LOUISVILLE HOTEL LOUISVILL *June 16th*, 1877

Col. S. V. White No. 8 Wall Street New York.

DEAR SIR, This will be handed to you by my son Fred K Porter. He has the papers in the Standish case and also Draft, not knowing the exact amount I draw for I have sent the papers to him,—anything he does it is the same if I had done it—he is authoris to act for me in everything. therefore if there is anything wanted he will, supply it and make any correction that may be necessary. I
78 did not receive the papers until late yesterday evening or you would have had them before

Very respectfully yours R H PORTER.

EXHIBIT C.

WASHINGTON D. C. *July* 28*th* 1879

S. V. White Esq

DEAR SIR I have done everything in my power to ade you in getting your money. I have faught off every pretender until Mr. Evarts is willing to pay you and me the money that each are entitled to.

I sold you my interest in the Parsons and Standish claims. I have protected that interest. Mr. Evarts is willing, as I understand the matter to pay you those two claims. The only question is who is entitled to the Conrow claim.

I know I am according to all law and equity. If you had keep clear of those men Pike and Johnson you would have had no trouble.

You know Judge O'Connor is your friend he has said your trading with them did not better your title, on the contrary was a disadvantage. You made this mistake, tis clearly a mistake for I can imagine no other case from the unfriendly feeling you manifest. I would have given anything I had If you had not purchased from them It has been my ruin If you had continued as you commenced we would have had no trouble. I am sustained in all I ever told you viz I stated that there was no one who had any interest in my fees in the Standish and Parsons claims.

I have been fully sustained in that by the Secretary and Judge O'Connor MacManus Pugh and Winder to the contrary whos alledge interest in this matter has been disregarded by the State Department, My attorney assures me that he will dismiss those
79 injunction suites, as soon as they are called. They will settle the matter now at the State Department disregarding there frivolous claims If you will agree as to how it shall be done with my attorney Mr. Trescot and we will bind our selves not to claim anything but what law and equity will give us

Respectfully (Signed) R. H. PORTER

P. S. I would rather have sacrifised every interest I had than this should have occurred I soled to you hoping to make a friend and I am in no condition to be contentious and claim that which is mine, but under the sircumstances it is my duty to defind my self, of any intention to decieve or misrepresent the facts, in these cases. And now if you will shake off all feeling about this business and look at the facts as they are I will bind my self to abid your decision.

Yours (Signed) R. H. P.

Cross-Interrogatories to be Propounded to Stephen V. White, the Defendant.

In the Supreme Court of the District of Columbia.

RICHARD H. PORTER
vs.
STEPHEN V. WHITE, } Equity No. 7536.

Question 1. How much money had you loaned Richard H. Porter up to September 20, 1876, and June 14, 1877? If said money was loaned from time to time prior to said dates, give the various sums and the respective dates, and at what rate of interest and how were said loans secured.

Answer. I had loaned $4,000 prior to September 20th, 1876, as follows: Feb'y 2d, 1876, $2,000; Sept. 11th, —, $500; Sept. 15th, 1876, $1,500. These sums were all loaned at 7 per cent. interest
80 and were secured by the deposit of what claimed to be original contract and power of attorney from S. Kearney Parsons to R. H. Porter, with an exemplification of judgment and assignment in blank from Porter. On Nov. 29th, 1876, I loaned him $500, and March 31st, 1877, I loaned him $200, at 7 per cent. interest, and took an informal assignment in blank or pledge of what purported to be the original contract and power of attorney, with an exemplification of the record in the case of Standish *vs.* Mexico.

Q. 2. You say, in your examination-in-chief, that you loaned plaintiff $2,000; one-half you paid him in cash and the other was placed to the credit of R. H. Gallaher as a margin for operations in stocks. Please state if you did not receive, out of the sum left to speculate upon, $300 that Gallaher individually owed you.

A. In answer to your second cross-question I state that I did not receive $300 or any other sum that Gallaher individually owed me out of the $1,000 left as margin on the account named.

Q. 3. State whether or not, when plaintiff's note became due, what was done.

A. In answer to 3d cross-question I state when the plaintiff's note came due I made an unsuccessful attempt to get plaintiff to pay it. Nothing occurred except that. I held it till it was paid, in settlement of purchase-money for the pretended interest of plaintiff in award.

Q. 4. Did you, when the $2,000 note came due, lend the plaintiff any more money; if so, how much, upon what security, and what rate of interest?

A. In answer to 4th cross-question I state that when the note came due I did not lend plaintiff more money. The note matured May 4th. I lent him the first money after that, Sept. 11th, 1876.

81 Q. 5. Give your reasons for saying that Gallaher was plaintiff's agent.

A. In answer to 5th cross-question I state that I am not aware that I have claimed or stated that Gallagher was agent for plaintiff.

I do not know of such agency, and so cannot give reasons for so stating.

Q. 6. On the 11th of Sept., 1876, how much money was due you from plaintiff; whether the same was paid, or did you lend him on said 11th of Sept., 1876, more money; if so, how much, and upon what security?

A. In answer *of* 6th cross-question I state: On Sept. 11th, 1876, there was owing me from plaintiff $2,000, and interest from May 4th, 1876. I lent him $500 more on that day, and then he owed me $2,500 and interest. He owed it on the Parsons award, as before stated.

Q. 7. On the 15th day of September, 1876, how much did said Porter owe you; whether any payment was made to you on that day; or if you loaned him more money, state the amount, for what time, and upon what security.

A. In answer to 7th cross-question I state that on the morning of September 15th plaintiff owed me $2,500 and interest; nothing was paid me then or at any time by Porter in money; on that day I lent him $1,500 on call upon the Parsons award.

Q. 8. If you lent him any more money from and after the 15th of September, 1876, state how much, when the same became due, and upon what security.

A. In answer to 8th cross-question I state: On November 29, 1876, I lent him $500, and on March 31, 1877, $200, both on call on the Standish award, as before stated.

Q. 9. Upon which award were all of the above-named sums advanced?

82 A. In answer to the 9th cross-question I state that the foregoing answers specifically answer that question.

Q. 10. Was not the house you have mentioned in chief encumbered for nearly or more than $9,000?

A. In answer to the 10th cross-question I state: The house was encumbered for $7,500 and interest from the then last past semi-annual interest day, and no more.

Q. 11. Did not Porter notify you that he only received $1,500 net after paying off all liens upon said house?

A. In answer to the 11th cross-question I say, No.

Q. 12. How much money in all did you loan Porter on the Standish award, and when?

A. In answer to the 12th cross-question I state: This question is fully answered in my former answers.

Q. 13. Did not Porter leave with you, at the time of the negotiations, the powers of attorney and contracts from Standish and Parsons to himself; if so, what has become of them?

A. In answer to the 13th cross-question I state: Yes; he had them, and attached them to the assignments, and they were filed with the Secretary of State.

Q. 14. Please produce the receipt for the $2,625 and all papers connected with that transaction.

A. In answer to the 14th cross-question I state that I do not have any receipt for the $2,625. I will produce on the trial the note

of $1,625 unpaid. The other $1,000 was evidenced by a note of Giddings, endorsed by Porter, which Giddings paid afterwards.

Q. 15. Give the names of the persons to whom you paid $30,000, and whom you designate as assignees.

A. In answer to the 15th cross-question I state that the
83 persons designated as assignees by me are Richard H. Musser and Pike & Johnson. I paid $15,000 to each of these parties.

Q. 16. Did you ever lend said Porter any money on the Conrow award?

A. In answer to the 16th cross-question I answer: No.

Q. 17. Did you ever purchase or pretend to purchase of said Porter any interest whatever in the Conrow award?

A. In answer to the 17th cross-question I state: No.

Q. 18. Did not you know that the time you purchased of Messrs. Pike & Johnson and Musser that you were simply purchasing whatever interest Musser had in said awards?

A. In answer to the 18th cross-question I state: I did not know that I was purchasing only the interest Musser had in those awards; on the contrary, I was purchasing whatever interest Musser and Pike & Johnson had in them.

Q. 19. Were you not informed at the time by Gen'l Pike, of the firm of Pike & Johnson, that that was all they were selling you, to wit, Musser's one-half interest in the fees in said awards? When did you purchase of Pike & Johnson and Musser?

A. The 19th cross-question is objected to as seeking to explain a written contract by contemporaneous parol conversation. Subject to this objection I answer: No; neither Pike nor Musser pretended to limit their interest. They sold to me one-half of the fees. They all claimed that they owned the whole fee. Musser asked $20,000 for his half and Pike & Johnson the same for theirs. I bid them $30,000. They asked a few minutes to consult and accepted, giving me a written assignment of their entire interest, which will best express what they sold me and to which I refer. The absurd-
84 ity of the falsehood which seems to have been cheerfully put forward and sworn to assuming that I am not a fool as well as a knave (that they sold me only half of the fee) is shown by the simplest possible calculation one-half of the fee, after taking out expenses of the U. S. commission, is less than $36,000 in Mexican gold. Mexican gold in this country averages 3 per cent. discount or, say, $15.50 for doubloons ($16.00). That would make the half fee less than $34,700, payable in instalments of less than $2,600 per year, or an average of more than six and a half years from January 31, 1877, and then, owing to 31 instalments having been paid in having an average of 5½ years to mature, this would not have paid over 3 per cent. simple interest on the money, and would have kept me waiting eleven years from January 31, 1877, before I would have received back the money paid out. If I am esteemed fool enough to have made such a contract as that — trust this litigation will raise my standard of intelligence in the mind of the man believing it. I purchased the claims of Musser and Pike & Johnson in February, 1879.

Q. 20. Have you not a letter written to you by Gen. Pike stating that such was the fact? If so, please attach hereto a copy of said letter.

A. The 20th cross-question is objected to because it calls for hearsay evidence, viz., the unsworn statement of a man not a party to the litigation, not even made at the time of the transaction. Subject to exception to competency Ianswer: Yes; I think I have. If so, upon examination of the files, I will produce the original of inspection on the trial of this case and to be used in evidence if held to be competent by the chancellor.

85 Q. 21. Do I understand you to mean that all the interest you have in the Conrow award was purchased from Pike & Johnson and Musser? Am I correct?

A. In answer to 21st cross-question I answer: I desire to be so understood.

Q. 22. In 1877 did you not write to Porter that he would have to look after the collection of the Conrow award himself?

A. In answer to 22d cross-question I say: No; not in 1877; I think, however, I did in 1878.

Q. 23. I wish to know if you want to be understood in saying at the various times you have named when you lent Porter the respective sums named that he was financially embarrassed, with no money to meet his necessary wants, or do you mean that he had means, but was temporarily embarrassed? State fully his financial responsibilities.

A. In answer to 23d cross-question I answer: I do not know Porter's financial responsibility. When I commenced dealing with him I supposed him to have property, but to be cramped for ready means. Subsequent and more intimate knowledge of him has led me look upon him as the most transcendent dead-beat, financially, of all my acquaintances, although the number is large, and they differ only "as one star differs from another in magnitude."

Q. 24. Have you not sworn in your answer to the bill filed by McManus, being in equity cause No. 6382, to the following:

"This defendant, further answering, denies that any assignment or pretended assignment was ever made by defendant Porter to this defendant of the claims of Conrow *vs.* Mexico."

86 A. In answer to 24th cross-question I state that I have not the papers in McManus *vs.* White, 6382 eq., before me, but I think I swore in substance as stated, and if I neglected it then I make it sure by so swearing now.

S. V. WHITE.

Sworn to before me this 21st day of July, 1882.

JAMES KEARNEY,
Notary Public, N. Y. Co. (*No.* 4).

And afterward, on the 14th Dec., 1882, there was filed in said cause the following motion to suppress certain portions of depositions of White and Pike in the words and figures as follows:

Supreme Court of the District of Columbia.

RICH'D H. PORTER, Plaintiff,
vs.
STEPHEN V. WHITE. } Equity, 7536.

The defendant, S. V. White, moves the court to suppress so much of the deposition of the witnesses, S. V. White and Albert Pike, as calls for the conversations of the witnesses at the time of the assignment of the interest of Rich'd H. Musser and Pike & Johnson to defendant White because such conversations are incompetent to vary, explain, or contradict the written assignment then made.

S. V. WHITE,
Def't, Pro. Se.

And afterward, on the 30th of Dec., 1882, there was filed in said cause a motion to strike out portions of answer of witness, R. H. Porter, in deposition in words and figures as follows:

Supreme Court of the District of Columbia.

RICHARD H. PORTER
vs.
STEPHEN V. WHITE. } Eq., 7536.

Defendant moves the court to strike out from deposition of
87 Richard H. Porter on the 3d page, before the signature of witness, these words: "Mr. White wrote me he would take $12,000 for his interest and reassign to me all interest I had given him in these claims"—

1. Because the letter will best disclose what was written in it.
2. The testimony seeks to give the contents of a written document without proof of its loss.

S. V. WHITE, *Pro. Se.*

And afterward, on the 30th of Dec., 1882, there was filed in said cause a motion to suppress a portion of the testimony of witness Pike in the words and figures as follows:

Supreme Court of the District of Columbia.

RICHARD H. PORTER
vs.
STEPHEN V. WHITE. } Eq., 7536.

The defendant moves the court to strike out the last question and answer of deposition of the witness, Albert Pike, taken August 19th, 1882—

Because said question calls for and said answer gives a conclusion or understanding of witness and not the facts of the assignment of witness' interest to defendant.

S. V. WHITE, *Pro. Se.*

And afterward, on the 30th of December, 1882, there was filed in said cause affidavit of the genuineness of exhibits in the words and figures as follows:

Supreme Court of the District of Columbia.

RICHARD H. RORTER
vs.
STEPHEN V. WHITE. } Equity, 7536.

I, Stephen V. White, do state on oath that the attached let-
88 ters, being letters of Richard H. Porter, dated, respectively, January 24th, 1877, March 25th, 1879, March 17th, 1879, March 18th, 1880, June 3d, 1877, May 13th, 1878, May 5th, 1878, were all sent by said Porter and received by me by due course of mail; that they are all original, and the signatures are all that of plaintiff, with which I am well acquainted, and that the signature of Frederic K. Porter is genuine; that it was made by said F. K. Porter while acting as agent for plaintiff in respect to his transactions in such agency business, and that the same are filed to be used as exhibits on the trial of this case.

Further affiant saith not.

S. V. WHITE.

Subscribed and sworn to before me December 30, 1882.

R. J. MEIGS, *Clerk*,
By M. E. CLANCY
Ass't Clerk.

ST. MARC HOTEL.
WASHINGTON, D. C. *Jany 24th* 1877

DEAR SIR Pardon me for troubling you so often but it is important to know wether you can lone me $500 or $600 for a shorte time I am satisfied that all the questions in the relations to transfers will be satisfactorly answered in a fiew days. Judge R. Rayan one of the Judges of the Alabama commission is examining that question. in full; and will give an opinion.

Which opinion will be equivelent to the Secretary of State as he is doing it at the request of the Secretary there is but one opinion about it here now. but still it is thaught but to have an official opinion

You will do me a greate favour to make me this lone I will sell and pay you as soon as it can be done

I am compellad to have this money as you know and you will make me feel so much better, I was about to say happy, that would be too much to feel all at once.

89 Pleas let me hear from you as soon as you get this. I am willing to pay and liberally, help me if you can I have over three hundred thousand dollars of good claims and judgements, and am more than confident I will be able to pay you Let come what may I believe it wont be more than a week or ten days before I can despose of my claim Just as soon as Congriss gets through with this

Election question, it is thaught they will dispose of a greate deal of business

If you can grant me this lone I would be glad you would give Mr. Keye the money to pay Mr King which is something over a hundred dollars The $500 Giddings got on my account and this that I am asking for make out a note for all and it here and I will fix it, or authorise me to draw upon you. Do this for me and I will save you all trouble in my power in looking after the Parsons matter (which I will do any how)

I am sorry I could not do as Mr Giddings wished me But when the claim is sold I will do that and more for him. I have no objection to help him, when I have the money, but to assume to pay for him depending upon a contingency I dont think it is right to you nor is it doing justice to myself and family I hate very much to have to hyposheate that claime even for my self and would not if I could help it,

Yours truly R H. PORTER

INTERNATIONAL HOTEL
NEW YORK *Febver 9th* 1877

Col. S. V. White

DEAR SIR I leave this evening for Louisville and expect to returne here in a fiew weeks with my family, and perhapes will remain there all spring and Summer. I have changed property with a Mr
I would give you his name if I could, but Mess Candy &
90 Cook can tell you all about it. I have made this trade at a sacrifice, and with too object one to releive myself and to releive you from anxiety and trouble, I am anxious to sell or borrow money on the Standish claim. If Col Giddings can effect this let him do so. You must protect me all the time He already owes me over Twelve hundred dollars. If he sells or borrowes he will expect more than a broker in the shape of a lone.

He expexs to borrow $5,000 from some one if he does You can let him have a $1,000 by taking his note due at the same time the lone is made If he sells I will let him have more, of course I will have to pay brokerage, If anything is done telegraph and write I then can tell better what to do I want to help the Col; and will do so when I can, for he will be able to pay after while.

Now that I have relieved you from responsibility in the House I may want you to help me some My return to Washington will be for your benefite as well as mine There is money in those claims I will know before hand what is to be done by the Gove, as to there payment I want an honest man to deal with Such as I regard you If you will enter into this with me I will make you money with but little out lay I would have seen you to day but was very sick last nigh and not well to day Then to rase money to go home on has keep me busely employed. Write to me 242 Broadway, Louisville Ky.

Yours truly R. H. PORTER

In haste

ST. MARC HOTEL
WASHINGTON, D. C., *Jany* 30*th* 1877

DEAR SIR Yours 29th inst recd as to the difficulty about
91 the House. I am willing to do almost any thing in my power and would make you a proposition if I knew what would suit you. I willing to let you have the house back at much less than I took it at as I am not able to pay the $1,500 morgage now. Make me an offer If it is within my power to relieve you from trouble and anxiety I will do so that you may depend upon I repeate make me an off.

Yours truly R. H. PORTER

Col S V White New Yorke

THE EBBITT, WASHINGTON, D. C.,
March 25, 1879.

S V. White, Banker &c.

DEAR SIR: I reply to your proposition, I have to say that if you withdraw your opposition, and consent that some responsible gentleman here may receive the drafts, draw the money and pay you there from the sum mentioned, the whole thing can be accomplished, and thus and the litigation now in progres here. Otherwise it will be sometime before the end can be reached.

Respectfully yours R H. PORTER

WASHINGTON D C *March* 17*th* 1879

Col S V White

DEAR SIR I dislike to force myself uppon anyone situated as I am. It becomes necessary that I should understand my position

I dislike to do or say anything unless I know what effect it is to have. The Secretary I understand will pay the money out that he has on the Mexican claims in a few days.

I desire to know what effect the course you have taken is to have upon my in the Conrow claim.

While I had Musser Pike and Johnson to contend with I understood what I had to depend upon and well knew what I had to do.

92 It is very different now and I am at a loss to know what to do, let people say or think what they pleas. I know I am entitled to the fees those Mexican claims, and every word I stated in my Brief (which I sent you) is true To loose the interest that I had believed I had secured in these claim will leave me more than ruined an I never would have parted with the interest in the other two to you. Had I not felt safe and secure in this other, and but for your action in purchasing an interest they never had *I was safe.* The difference in contending with them and you is very greate, In one I was nerved and ready for anything. With you I am unmanded. They Slandered and lied laid their plans to robe me well knowing what they were doing By oily tungs and deep laid plans they have decieved you. So you see my situation is very

different. Therefore pleas let me know what your purposes are before I will feel compelled to take some steps to protect myself. I have had the kindest feelings for you and have felt under very greate obligations Therefore would dislike very much to do any thing you would disapprove of. But I am too pore to let the only hope I for the future pass from me by the acts of those men.

Yours truly R H. PORTER

THE IMPERIAL, WASHINGTON, D. C.
March 18*th* 1880

S. V. White Esq No 8 Wall St New York

SIR I am now ready to comply with your proposition of March 24th 1879, and accepted by me, to deliver to me the assignments received from me in the Case of Mrs Mildred Standish *vs* Mexico and S Kearney Parsons *vs* the same, upon the payment of $12000 and returne to me all papers as per proposition above referred to.

93

Please let me hear from you at once, I remain

Respectfully Yours

R H. PORTER.

LOUISVILLE KY *June* 3*rd* 1877

S V White Esq New York

DEAR SIR: I have not heard a word from you Since I left New York I was in hopes you would sell or conclude and take my claim and felt some-what confident you would do so

I am bound to raise money and have nothing but claims to rase it from. I have some good and large claims that I can calculate upon collecting them within a year The Hamilton claim is one of them and is if properly attended to can curtainly be amung the No reported to next Congress In no instance has Congress failed to make appropeations to pay all claims allowed by the South, Claims Commission

My interest is 40 per cent in the gross amount of that clam, 15 per cent will all expences that I will incur in prosecuting that claime The most of which I have already paid, The 15 from the 40 leave me 25 clear If you will furnish me a fiew thousand dollars I will transfer such an interest as you will double every dollar you let me have and perhaps much more If you can posibly spare the money I can make it to your interest to do so with the risk of loosing If the payment is delayed longer than the adjournment of next Congress it will be from the neglect of the persons attending to the claims. I will give my word it shal not want for that If I am able to be about at all. To complete this claim Some of the testimony was taken away from Washington The Commission require me to bring those witnesses to Washington City & before them Which I want to do in July or August Just as soon as I can get them to come Capt Harl one of the most important one in the No, was here yesterday He said he will be ready to go The last of June or in August The Capt is the imploy of the Government

94

and can only go when he can get leave. Excuse for taking up so much of your time I wanted to explain this matter was to give you an idea of it I can make a large amount of money for you without but little out lay at the Same time it will help me and put me in Situation in the course of time that I can be of assistance to you If you will take the Standish claim you can have it for 30 per cent. this is confidential and I do not make it to any one else and will not unless compelled to do so to rase money. I am detained here on account of my wife's expected sickness. But think I can leave the last of this month. I hope you will let me hear from you as soon as you get this If you will take hold of this matter you will make money sure and enough to make it an object Yours truly

R H PORTER

WASHINGTON *May* 13*th* 78

Col S V White

DEAR SIR I am trying to find a Sertificate of deposite I took with me to Ky. 1877 The time I got som money from you You gave me a check on your Bank Please let me know the name of the Bank also let me know if I took one from you any time in 1877 before June Let me hear from you as soon as you get this

Yours truly

R H PORTER
614—13—Street

95 WASHINGTON D. C *May* 14*th* 1878

Col S V White New York

DR COL I wrote to you the other day about Draft or Sertificate of deposit Did you send me a draft any tim from the 1st of January 1877 to June 20th the same year, Send me the name of the Bank You gave me check on The last time I was in New York, that year and had any money transactions with. In 1877 and before June 20th I had a Sertificate or Draft that I got from you or purcheased it with money I got — you. If your Books will show what time that was that will help me to find the Draft or Sertificate I am Sorry to trouble you so much The 1st Nat Bank Louisville is giving me this trouble and is claiming to have purchased a Sertificate that I did not have, but I did have one if I can find it, that I purchased the last time I was in New York. 1877 & before 20th of June please let me hear from you as soon as you can. Yours Truly

R. H. PORTER No 614–13 St.

WASHINGTON, *May* 5*th* 1878.

DEAR WHITE I wrote to you last week not having received an answer I thaught I would write a gaine Col Giddings told me you were from home. Please send me the Million papers my note to him & contract &c anything should happin to you or me no one would understand them. You have my papers in the Mrs Conrow claim you had better draw up a paper send it here and let us arrange that also. I hope to get some money before long and pay

you until that is done let us arrange it as it should be done, so there will be no misunderstanding If I could rase the money I would purches the Standish claime back from you provided you would sell Did I have a draft or draw upon you for any money last
96 June, Since I have had a misunderstanding with the 1st Nat Bank at Louisville about $500 Sertificate or letter of credit from the 4 Nat Bank N Y It seems to me that I drew upon you or had a check of yours about that time. Pleas let me hear from you as soon as convenient I hope to have money soon to pay that $750 God knows I wish I had it now It would give me more pleasure to send it to you than any thing I can think of now

Yours truly R H PORTER

Direct 614. 13 Street

OFFICE OF CANTONI & Co., BANKERS, 35 WALL ST

NEW YORK *Feby 9th* 1877

S V White Esq New York City N Y

MY DEAR SIR: Will you be so kind as to hand me the search you had made in the Laffyett Av property You spoke of sending it to me but I suppose you have forgotten to do so I neglected to say to who'm you should hand it

Mr Cantoni has purchased the property and desires to have the search. Respectfully &c

FREDERICK K. PORTER

97 And afterwards, on the 7th of February, 1883, there was filed in said cause the following stipulation:

RICHARD H. PORTER
vs.
STEPHEN V. WHITE. } Equity, 7536.

In above cause it is stipulated that all letters and papers and exhibits on file in this case or in the cases of McManus *vs.* Porter, Peugh *vs.* Porter, and Chiles *vs.* Porter, heretofore tried in this court, may be read in evidence, subject to all proper exceptions as to competency and materiality of the evidence, all objections as to formality of proof being waived.

S. V. WHITE, *Pro Se.*
S. S. HENKLE,
J. J. JOHNSON,
Solicitors for Comp.

And afterward, on the 8th of February, there was filed in said cause the following copies of letters used in evidence in the words and figures as follows:

98 RICHARD H. PORTER
vs.
STEPHEN V. WHITE. } Equity, 7536.

Copies of letters read in evidence in the foregoing cause on the trial February 7, 1883, on the part of defendant, all having been shown as sent or delivered to plaintiff:

1.

JULY 28, 1876.

This will witness that I hold an assignment from Dr. R. H. Porter of one individual half of the claim of S. K. Parsons against Mexico, being for $50,500, gold, which assignment is made to secure the sum of $2,000 advanced by me to said Porter, and will be reassigned upon the payment of said advance and interest.

(Signed) S. V. WHITE.

2.

JUNE 9TH, 1877.

R. H. Porter, M. D.

DEAR SIR: Your letters have been received. Your son also called to-day. I could not sell your voucher at any price. I am not able to buy it myself, but if you would rather have $5,000 cash than the voucher I will take it, and I do not want it at that, because I am not able to spare the money without great inconvenience. If you want to take that offer you may telegraph, and I will forward proper papers transferring the whole thing and making me attorney, &c., and on the execution I will pay your draft for balance due you.

Truly yours, S. V. WHITE.

3.

JUNE 12TH, 1877.

R. H. Porter, M. D., Louisville, Ky.

DEAR SIR: I send with this paper in the matter of the as-
99 signment of the Standish claim; you see I make them very specific to myself and I shall immediately lodge the whole of the papers in the State Department. As there was a question of the minor children I have had an affidavit drawn showing that one-half was a fair compensation in the case for the work done by you. Please execute the affidavit as well as the assignment in the presence of two witnesses. You ought to get this in time to execute and remail Thursday. If so I can have your money in Louisville on Monday.

Truly yours, S. V. WHITE,
Per J. BROWNELL.

4.

MARCH 24TH, 1879.

R. H. Porter, Washington, D. C.:

I will reassign all the interest I received from you for $12,000, and give you up your notes beside for more than $3,350.

Yours truly, S. V. WHITE.

5.

MARCH 24TH, 1880.

Richard H. Porter, care of Imperial, Washington, D. C.

SIR: I am in receipt of yours of 18th instant, and have not before written, for want of time to — you justice. Your letter might have been a surprise to me but for the fact that nothing that you could do (except always an honest action) would now surprise me, and but for a copy of a letter forwarded to me from the Department of State by a certain Mr. Matchett, who signs himself as your attorney, which letter bears date February 25th, 1880.

By the copy of said letter so forwarded I learned that your
100 attorney aforesaid had turned the calcium light of his legal acumen full upon this case, and was then and there accepting a proposition eleven months and one day old, which you, in your childlike simplicity and innocence, had expressed yourself unable to comply with at the time, by letter duly written by you and received and retained by me. As a medical man, why didn't you suggest to him that the period of gestation extended beyond eleven months would be without precedent in the books, and that a bargain could scarcely be born from connection with a proposition at so remote a period.

But did it ever occur to you that my proposition was not that you should leave $12,000 in the Secretary of State's office, but that you should pay that sum. I have no doubt but what you will leave the money in the Department of State so far as you are concerned through all time. I wanted you to pay it. You have left it already for over three years. I feel that your attorney should be known as matchless, not Matchett, and that a proper forum for the exhibition of his powers would give him a reputation for acumen equal to your own well-known love of and reputation for truth.

So much for the phase of the case as presented by the letter on file in the State Department.

Now for your own proposition, and I am going to write it very carefully, so that you can file this letter also in the State Department, as it will make pleasant reading to go down in the national archives.

You say, "I am now ready to comply with your proposition of March 24th, 1879, and accepted by me, to deliver to me the assignment received from me in the case of Mrs. Mildred Standish *vs.* Mexico, and S. Kearney Parsons *vs.* the same, upon the payment of $12,000.

101 Well, now, I do not want to be mean with as worthy a man as you are. I am going to waive all the questions of the eleven months' gestation and all that sort of thing, and come right down to business. I am going to be more liberal than you ask. I recognize that a counsellor who has been kept out of his fees as long as you have from those you claim in these cases, must be, in the language of pious men from your State who do not like to "swear with a great big D——," what such pious people would call "*dog-oned hard up*" and a little saving of $2,000 would come handy.

And I am not going to ask you, knowing full well as you do on which side of the Hudson river Sing Sing is—I am not going to ask you with your delicate nervous organization—to come to New York.

But here is what I will do. If on any day between now and April 3d, 1880, at 12 o'clock noon of said day, you meet me in person or by attorney at Taylor's Hotel, within the jurisdiction of the good State of New Jersey, in the city of Jersey City, and then and there will pay me or cause to be paid to me the sum of $10,000 in gold, silver, or nickels, U. S. legal tender, or national bank notes, or in a certified check on any bank in the city of New York, I will reassign all the right and title ever received by assignment from you of, in, and to the two claims mentioned, viz, Mildred Standish *vs.* Mexico and S. Kearney Parsons *vs.* Same. Said document of reassignment may be drawn by your own attorney, and may contain all the *habendum* and *tenendum* clauses which he would naturally put in. I will only add that this is made in that lovely spirit of compromise so characteristic of me, and because I do not want to have the name of cheating you.

But, Richard, you must be prompt. No eleven-months
102 child in this. Name your day, on any day you please, up to April 3d proximo, at noon. Give me twenty-four hours' notice of your intention, and the thing shall be done.

Nota Bene.—Confederate money will not be received. All other currency is good to me.

Faithfully and truthfully yours,

S. V. WHITE.

And also, on February 8th, 1883, the following was filed in said cause:

RICHARD H. PORTER
vs.
STEPHEN V. WHITE. } In Eq. No. 7536.

In this case, by consent of counsel, the demands of defendant for return of purchase-money and upon notes set out in answer is withdrawn without prejudice to the right of defendant White to sue on the same at law.

CHAS. C. JAMES, *Justice.*

And afterwards, on February 27, 1883, there was filed in said cause a decree in words and figures as follows:

In the Supreme Court of the District of Columbia. In Eq.

RICHARD H. PORTER
vs.
STEPHEN V. WHITE. } No. 7536.

This cause came to be heard at this term, and was argued by counsel; on consideration whereof the court finds that the plaintiff is entitled to the one full, equal half of the attorneys' fees in the

awards against Mexico by the joint United States and Mexican commission in the case of Mary Ann Conrow, referred to in the bill and proceedings in this case, and the defendant is entitled to the other half. It appearing to the court that the defendant
103 White has been recognized by the State Department as entitled to the whole of the said attorney's fees in said award, and that he has already been paid by the State Department from the instalments heretofore paid by Mexico upon said award the following sums at the times following, to wit: On the 5th day of May, 1881, $8,896.81; on the 11th day of April, 1882, $1,806.06, and that there is now on hand in the State Department the sum of $1,806.06, applicable to said attorney's fee in said Conrow case, and that there are seven more annual instalments to be paid by Mexico upon said award, it is, this 27th day of February, 1883, ordered, adjudged, and decreed that the said defendant do, within five days from this date, pay to the solicitors of said complainant Porter the one-half of the said sums by him heretofore received upon said awards, with interest thereon at the rate of six per cent. per annum from the times of payment to him as aforesaid, to wit, $4,448.41, with interest from the 5th day of May, 1881, and $903.03, with interest thereon from the 11th day of April, 1882; that said defendant assign and transfer to the plaintiff, by such form of conveyance as will be recognized by the State Department, the one equal half of the payments yet to be made by Mexico upon said awards applicable to attorney's fee, including the amount now in said Department applicable to said purpose, and that the defendant pay the costs of this suit within ten days, or that in default thereof, as well as in default of the payment of the amount found due to the said Porter, execution do issue therefor as upon judgment at law.

CHAS. C. JAMES, *Justice.*

104 AUTHENTICATION OF RECORD.

Clerk's Certificate.

CLERK'S OFFICE, SUPREME COURT OF THE DISTRICT OF COLUMBIA.

I, R. J. Meigs, clerk of the said court, do hereby certify that the writings annexed to this certificate are true copies of originals on file and of record in said office, and that said originals together constitute the record of the proceedings of said court in this cause.

Witness my hand and the seal of said court this 28th day of March, 1884.

[Seal Supreme Court of the District of Columbia.]

R. J. MEIGS, *Clerk,*
By R. J. MEIGS, JR.,
Assistant Clerk.

Justice's Certificate.

I, David K. Cartter, chief justice of said court, do certify the foregoing attestation by R. J. Meigs, clerk of the said court, to be in due form.

Witness my hand and seal this 28th day of March, 1884.

D. K. CARTTER, [SEAL.]
Chief Justice.

Clerk's Certificate to Justice's Official Character.

I, R. J. Meigs, clerk of said court, hereby certifiy that David K. Cartter, whose genuine signature is subscribed to the foregoing certificate, was, at the time of signing and attesting the same, chief justice of said court, duly commissioned and qualified.

Witness my hand and the seal of said court this 28th day of March, 1884.

[Seal Supreme Court of the District of Columbia.]

R. J. MEIGS, *Clerk*,
By R. J. MEIGS, JR.,
Assistant Clerk.

[Seal Supreme Court of the District of Columbia.]

105 Proceedings before supreme court of the District of Columbia, in general term.

MONDAY, *October* 1st, 1883.

Present: Chief Justice Cartter and Justices Hagner and Cox.

MONDAY, *December* 24, 1883.

Session resumed pursuant to adjournment.

Present: Chief Justice Cartter and Justices Hagner and Cox.

RICHARD H. PORTER, Complainant,
vs.
STEPHEN V. WHITE, Defendant.
} 7536, Equity Docket.

This cause come on to be heard at this term, and was argued by counsel; and thereupon, on this 24th day of December, A. D. 1883, upon consideration thereof, it is found by the court that the equities thereof are with the defendant, and that the respective awards of S. Kearney Parsons against Mexico and Mildred Standish against Mexico were not assigned and delivered by the plaintiff to the defendant as security for the return of money, and that the plaintiff is not the assignee of any portion of the award of Mary Ann
106 Conrow against Mexico, but that the defendant, Stephen V. White, is the assignee in his own right of a moiety of each of the said three awards; wherefore it is ordered, adjudged, and decreed by the court that the judgment and decree heretofore entered in favor

of plaintiff against the defendant on February 27th, 1883, in the special term, be, and the same is hereby, vacated, annulled, and held for naught, and the bill herein is dismissed, and that the defendant, Stephen V. White, do have and recover of the plaintiff, Richard H. Porter, his costs herein expended, taxed at $—, and that he have execution therefor as in a suit of law, and to said order the plaintiff prays an appeal to the Supreme Court of the United States, which is allowed.

By the court:

D. K. CARTTER,
Chief Justice.

In General Term. October 16, 1884.

Present, presiding: Justice- MacArthur, Hagner, and James.

PORTER *vs.* WHITE. } 7536, Equity Dock. 21.

Bond of appeal by complainant Porter to Supreme Court U. S. allowed to be filed in the penalty of two hundred and fifty dollars.

By the court.

107 In the Supreme Court of the District of Columbia, the 20th day of October, 1884.

RICHARD H. PORTER *vs.* STEPHEN V. WHITE. } No. 7536.

In error.

Know all men by these presents that we, Richard H. Porter and Edwin Harris, are bound unto the above-named Stephen V. White in the sum of two hundred and fifty dollars, to be paid to the said Stephen V. White, his executors or administrators; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals and dated this 20th day of October, 1884.

Whereas the above-named Richard H. Porter has prosecuted an appeal to the Supreme Court of the United States to reverse the decree rendered in the above suit by the said supreme court of the District of Columbia:

Now, therefore, the condition of this obligation is that if the above-named Richard H. Porter shall prosecute his said appeal to effect and answer all damages and costs, not to exceed the sum of two hundred & fifty dollars, if he shall fail to make good his plea, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

RICHARD H. PORTER. [SEAL.]
EDWIN HARRIS. [SEAL.]

Sealed and delivered in presence of—
GEORGE M. HARRIS.

Approved by order of the court.
1884, Oct. 23.

D. K. CARTTER,
Chief Justice.

108 AUTHENTICATION OF RECORD.

Clerk's Certificate.

CLERK'S OFFICE, SUPREME COURT OF THE
DISTRICT OF COLUMBIA.

I, R. J. Meigs, clerk of the said court, do hereby certify that the writings annexed to this certificate are true copies of originals on file and of record in said office, and that said originals, together with that portion heretofore filed in the clerk's office of the Supreme Court of the U. S., constitute the record of the proceedings of said court in this cause.

Witness my hand and the seal of said court this 23 day of October, 1884.

[Seal Supreme Court District of Columbia.]

R. J. MEIGS, *Clerk,*
By L. P. WILLIAMS,
Assistant Clerk.

Endorsed on cover: Dist. of Columbia supreme court. No. 221 Richard H. Porter, appellant, *vs.* Stephen V. White. Filed 27th April, 1885.

335 Know all men by these presents:

That whereas, on the twelfth day of March, A. D. 1874, S. Kearney Parsons, of Jefferson City, Missouri, did execute a certain power of attorney of that date, whereby Richard H. Porter was authorized and empowered by letters irrevocable to prosecute a claim of said Parsons against the Republic of Mexico before the Joint Commission of the United States of America and the Republic of Mexico, which said power is hereto attached and for reference made a part hereof as A, and which continued a full power of substitution; and whereas on the same day said Parsons and said Porter made their certain contract signed by each of them, whereby it was agreed that in consideration of the services which said Porter agreed to render and of the expenses of prosecution of said claim which he agreed to pay, that he should be by the said Parsons employed to prosecute said claim and to receive one-half of the net proceeds of said claim as compensation therefor, which sum the said Parsons thereby agreed to pay, as will fully appear by reference to the original contract which is attached hereto and for reference made B; and whereas, such proceedings were had in said cause that on November 25th, 1875, judgment was rendered by the umpire in said cause in favor of said claimants against the Republic of Mexico for the sum of fifty thousand five hundred dollars, with interest on the five hundred dollars from August 15th, 1865, payable in gold, as will fully appear by reference to a transcript of the judgment in said cause which is hereto attached and for reference marked C; and whereas the said Porter is desirous of assigning all his interest in the premises and of substituting Stephen V. White, of New York city, as attorney-in-fact, to receive, collect, and receipt for all the said moneys as the same may become payable:

Now, therefore, this instrument witnesseth that I, the said Richard H. Porter, by virtue of the power in me vested under and by virtue of the said power of attorney referred to herein as A, have made, constituted, substituted, and appointed the said Stephen V. White, of New York, the true and lawful attorney-in-fact, irrevocable, of the said S. Kearney Parsons, to do and perform all and every lawful act in the further prosecution, receipt, and collection of said claim which I, the said Richard H. Porter, might lawfully do in the premises, if personally present, with full power of substitution, hereby ratifying and confirming every such lawful act as he, the said attorney, may rightfully do in the premises.

And I, the said Richard H. Porter, in consideration of the premises and of fifteen thousand dollars to me in hand paid at or before the ensealing or delivery of these presents, the receipt whereof is hereby acknowledged, have sold, assigned, transferred and set over, and by these presents do set over unto the said Stephen V. White all my right, title, and interest in said award, and any or all sums of money or other benefit or advantage that may be had or obtained by me by reason of said award, and by

the said agreement or power of attorney of the said S. K. Parsons, and I do hereby covenant to and with the said
336 Stephen V. White, his executors, administrators, or assigns, that my interest in said award under the agreement aforementioned is fully one-half the face thereof and more, and that I have not received and will not receive any payment, and have not done and will not do anything to hinder the said Stephen V. White from collecting or realizing the same.

In witness whereof, I have hereunto set my hand and seal, this 20th day of September, 1876.

R. H. PORTER.

In presence of—
JONATHAN BROWNELL
G. H. GIDDINGS.

STATE OF NEW YORK, }
City and County of New York, } *ss:*

On this 20th day of Sept., A. D. 1876, personally appeared before me Richard H. Porter, to me personally known, and known to me to be the individual described and who executed the foregoing instrument, and he acknowledged to me that he executed the same as his act and deed and for the purposes therein mentioned; he also acknowledged that he executed the said instrument as the attorney-in-fact for the said S. K. Parsons, and as such for the act and deed of the said S. K. Parsons, and he acknowledged to me that he executed said instrument for said S. K. Parsons as his act and deed and as his attorney-in-fact, and for the purposes therein mentioned.

In witness whereof, I have hereunto set my hand and affixed my official seal, this 20th day of Sept., 1876.

[SEAL.] GILBERT SMITH,
Notary Public (268), *N. Y. County.*

Power of Attorney.

Know all men by these presents, that S. Kearney Parsons, son and heir-at-law of M. Monrow Parsons, deceased, of Jefferson City, in the State of Missouri, have made, constituted, and appointed, and by these presents do make, constitute, and appoint Richard H. Porter, of Washington city, D. C., my true and lawful attorney irrevocable for me and in my name, place, and stead, hereby annulling and revoking all former powers of attorney or authorization whatever in the premises, to prosecute before the Joint Commission of the United States of America and the Republic of Mexico, a certain claim now pending before that commission for the killing and robbing of my father, M. Monrow Parsons, in the Republic of Mexico, and being now of lawful age to act in my own behalf, I hereby especially revoke and annul a power of attorney heretofore given to one R. H. Musser, of St. Louis, Missouri, bearing date the 20th day of

December, 1869, by Jackson L. Smith, of Jefferson City, Missouri, then the curator of my estate; and I also hereby revoke and annul any and all other power of attorney which the said Jackson L. Smith may have given to any other person or persons whomsoever, and to, from time to time, furnish any further evidence necessary or that may be demanded, giving and granting to my said attorney full power and au-
337 thority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intents and purposes as I might or could do, if personally present at the doing thereof, with full power of substitution and revocation, and to receipt and sign all vouchers, hereby ratifying and confirming all that my said attorney or his substitute may or shall lawfully do or cause to be done by virtue hereof.

In witness whereof, I hereunto set my hand and seal, this twelfth day of March, eighteen hundred and seventy-four.

S. K. PARSONS. [L. S.]

(A.)
Two witnesses who can write:
F. M. WINSTON, JR.
N. CALLAN.

DISTRICT OF COLUMBIA,
County of Washington, } *ss:*

Be it known that on this twelfth day of March, in the year eighteen hundred and seventy-four, before me, the undersigned, a notary public in and for said county and District, personally appeared S. K. Parsons, to me well known to be the identical person who executed the foregoing letter of attorney, and the same having been first fully read over to him, and the contents thereof duly explained, acknowledged the same to be his act and deed, and that I have no interest, present or prospective, in the claim.

In testimony whereof, I have hereunto set my hand and affixed my seal of office, the day and year last above written.

[SEAL.] N. CALLAN,
Notary Public.

This agreement, made and entered into this 12th day of March, 1874, by and between S. Kearney Parsons, son of Monrow M. Parsons, deceased, party of the first part, and Richard H. Porter, of Washington city, party of the second part, witnesseth: That it is agreed by and between the parties to this agreement, severally subscribed thereto, that the said party of the second part is employed and empowered to prosecute under the Joint Commission between the United States of America and the Republic of Mexico the claim of S. Kearney Parsons, son and heir of M. M. Parsons, deceased, against the said Republic of Mexico. The said party of the second part is to pay all expenses and to

receive half of the net proceeds of said claim after deducting the expenses of the said prosecution.

In witness whereof, we have set our hands and seals this day and year first above written.

S. K. PARSONS. [SEAL.]
R. H. PORTER. [SEAL.]

(B.)
Witness:
J. M. WINSTON, JR.
S. E. NEWGENT.

These men live—.
Jefferson City, Mo,
Kansas City, Mo.

338 UNITED STATES OF AMERICA, DEPARTMENT OF STATE.

To all whom these presents shall come, Greeting:

I certify that the documents hereto annexed are true copies from the files of this Department.

In testimony whereof, I, William M. Evarts, Secretary of State of the United States, have hereunto subscribed my name and caused the seal of the Department of State to [be] affixed.

Done at the city of Washington, this 15th day of February, A. D. 1881, and of the Independence of the United States of America the 105.

[SEAL.] WM. M. EVARTS,
Secretary of State.

Know all men by these presents, that whereas, on the 8th day May, 1874, Mildred Standish, widow and relict and executrix of Austin M. Standish, deceased, and guardian of Richard Adolphus Standish, Austin D'Arcy Standish, and Monroe Parson Standish, infant heirs of Austin M. Standish, of the county of Cole, State of Missouri, did execute a certain power of attorney of that date, whereby Richard H. Porter was authorized and empowered by letters irrevocable to prosecute a claim of said Mildred Standish in her own right and as such executrix and guardian, against the Republic of Mexico, before the Joint Commission of the United States of America and the Republic of Mexico, which said power is hereto attached, and for reference made a part hereof as "A," and which contained a full power of substitution; and whereas on the same day said Mildred Standish, in her own right and as executrix and guardian aforesaid, and said Porter made their certain contract, signed by each of them, whereby it was agreed, that in consideration of the services which said Porter agreed to render, and of the expenses of prosecution of said claim, which he agreed to pay, that he should be, by the said Mildred Standish, in her own right, and as executrix and grardian aforesaid, employed to prosecute said claim, and to receive one-half of the net proceeds of said claim as compensation therefor, which sum the said

Mildred Standish, in her own right as executrix and guardian aforesaid, thereby agreed to pay, as will fully appear by reference to the original contract which is attached hereto and for reference made "B;" and whereas such proceedings were had in said cause, that on March 12th, 1875, judgment was rendered by the umpire in said cause in favor of said claimants against the Republic of Mexico for the sum of forty-one thousand five hundred dollars, with interest on five hundred dollars
339 from August 15th, 1865, payable in gold, as will fully appear by reference to a transcript of the judgment in said cause, which is hereto attached, and for reference marked "C;" whereas said R. H. Porter did make large disbursements and rendered services to said Mildred Standish, acting in her own behalf and as executrix and guardian aforesaid, the reasonable value of which was fifty per centum of such amount as might be and was recovered in the premises, as will fully appear by the affidavit of said R. H. Porter, which is hereto attached, made a part hereof, and for reference marked "D;"

And whereas the said Porter is desirous of assigning all his interest in the premises, and of substituting Stephen V. White, of New York city, as attorney in fact, to receive, collect, and receipt for all said moneys as the same may become payable:

Now, therefore, this instrument witnesseth, that I, the said Richard H. Porter, by virtue of the power in me vested, under and by virtue of said power of attorney, referred to herein as "A," have made, constituted, substituted, and appointed the said Stephen White, of New York city, the true and lawful attorney in fact, irrevocable, of the said Mildred Standish, in her own right and as executrix and guardian aforesaid, to do and perform all and every lawful act in the further prosecution, receipt, and collection of said claim, which I, the said Richard H. Porter, might lawfully do in the premises if personally present, with full power of substitution, hereby ratifying and confirming every such lawful act as he, the said attorney, may rightfully do in the premises.

And I, the said Richard H. Porter, in consideration of the premises, and of twelve thousand five hundred dollars to me in hand paid, at or before the ensealing and delivering of these presents the receipt whereof is hereby acknowledged, have sold, assigned, transferred, and set over, and by these presents do sell, assign, transfer, and set over unto the said Stephen V. White all of my right, title, and interest in said award, and any or all sums of money or other benefit or advantage that may be had or obtained by me by reason of said award, and by the said agreement or power of attorney of the said Mildred Standish in her own right, and as executrix and guardian aforesaid.

And I do hereby covenant to and with the said Stephen V. White, his executors, administrators, or assigns, that my interest in said award under the agreement aforementioned is fully one-half the face thereof, and more, and that I have not received and will not receive any payment, and have not done

and will not do anything to hinder the said Stephen V. White from collecting or realizing the same.

In witness whereof, I have hereunto set my hand and seal, this 14th day of June, 1877.

RICHARD H. PORTER. [SEAL.]

In presence of—
CLINTON McCLARTY.
WM. B. KERLIN, JR.

340 A.

STATE OF KENTUCKY, *City of Louisville, County of Jefferson,* } *ss:*

Know all men by these presents, that Mildred Standish, ex'tr'x of Austin M. Standish, deceased, of Jefferson City, in the State of Missouri, have made, constituted, and appointed, and by these presents do make, constite, and appoint, Richard H. Porter, of Washington city, D. C., my true and lawful attorney, irrevocable, for me and in my name, place, and stead, hereby annulling and revoking all former powers of attorney or authorization whatever in the premises, to prosecute for me and my children, Richard Adolphus Standish, *Aaron Daucy* Standish, a claim now before the Joint Commission of the United States and the Republic of Mexico, now sitting in the city of Washington, D. C., for the murdering and robbing of my late husband, Austin M. Standish, in the Republic of Mexico, and to, from time to time, furnish any further evidence necessary or that may be demanded, giving and granting to my said attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intents and purposes as I might or could do if personally present at the doing thereof, with full power of substitution and revocation, and to receipt and sign all vouchers, hereby ratifying and confirming all that my said attorney or his substitute may or shall lawfully do or cause to be done by virtue hereof.

In witness whereof, I hereunto set my hand and seal, this eighth day of May, eighteen hundred and seventy-four.

MILDRED STANDISH. [SEAL.]

Two witnesses who can write:
GUS. A. HAGER.
J. E. GRIESHAMMER.

STATE OF MISSOURI, *County of Cole,* } *ss:*

Be it known that on this 8th day of May, in the year eighteen hundred and seventy-four, before me, the undersigned, a clerk of the county court in and for said county and State, personally appeared S. Mildred Standish, to me well known to be the identical person who executed the foregoing letter of attorney, and the same having been first fully read over to her, and the

contents thereof duly explained, acknowledged the same to be her act and deed, and that I have no interest, present or prospective, in the claim.

In testimony whereof, I have hereunto set my had and affixed my seal of office, the day and year last above written.

W. H. LUSK, *Clerk.*

Fred. K. Porter is substituted and authorized to act under the powers given to me in the within power of attorney.

R. H. PORTER.

341 Witness:
L. M. CLOSS.
CLAXTON CHERY.

(Cancelled.)

B.

This agreement made and entered into this the eighth day of May, 1874, by and between Mildred Standish, widow and relict and executrix of Austin M. Standish, deceased, and guardian of Richard Adolphus Standish, Austin D'Arcy Standish, and Monrow Parson Standish, infant heirs of Austin M. Standish, of the county of Cole and State of Missouri, party of the first part, and Richard H. Porter, of the city of Washington, D. C.:

Witnesseth that it is agreed by and between the parties to this agreement, severally subscribing thereto, that the said party of the second part is employed and empowered to prosecute under the Joint Commission between the United States of America and the Republic of Mexico the claim of the said Mildred Standish, as widow, executrix, and guardian for her children against the said Republic of Mexico.

The said party of the second part is to pay all expenses, and receive of the net proceeds of the said claim after deducting the expenses of said prosecution.

Witness our hands and seal this day and year above written.

MILDRED STANDISH. [SEAL.]
R. H. PORTER. [SEAL.]

Witness:
S. K. PARSONS.
T. M. WINSTON, JR.

For and in consideration of the sum of ——— to me paid by ——— this receipt whereof as hereby acknowledged I have transferred and assigned all my right, title, and interest to the within contract.

R. H. PORTER.

Know all men by these presents, that I, Sarah M. Standish, guardian and curator of Richard A. Standish, Austin D. Standish,

and Monroe P. Standish, of the county of Cole, in the State of Missouri, have made, constituted, and appointed, and by these presents do make, constitute, and appoint Robert W. Johnson, in the city of Washington, District of Columbia, my true and lawful attorney, irrevocable for me, and in my name, place, and stead to prosecute a certain claim against the Government of Mexico, for indemnity for the murder and robbery of my husband, Austin M. Standish, in Mexico, on or about the 15th day of August, A. D. 1865, by military authority of Mexico, amounting to ———, more or less, before any of the courts of the United States, and upon appeal to the Supreme Court of the United States, or before any of the departments of the Government, or before the Congress of the United States, or before any officer or commission or convention specially authorized to take cognizance of said claim, or through any diplomatic negotiations, and to collect the same; and from time to time furnish any further evidence necessary and proper for the successful prosecution of my said claim, giving and granting to my said attorney full power and authority to do and perform all and every act and thing whatever requisite and necessary to be done in and about the premises as fully to all intents and purposes as I might or could do if personally present at the doing thereof, with full power of substitution and revocation, and to receipt and sign all vouchers and bonds of indemnity or appeal, and to endorse all drafts and vouchers in my name, either by or without indicating that it is done by procuration, which may be requisite in the prosecution or collection of said claim, hereby ratifying and confirming all that my said attorney or his substitute may or shall lawfully do or cause to be done by virtue hereof, revoking prior power of attorney executed by me in this behalf. The compensation of said attorney being contingent upon the payment or adjustment of said claim, this power of attorney is intended to include the protection of their interest as per agreement of this date and is enrevocable.

In witness whereof, I hereunto set my hand and seal, this 19th day of March, eighteen hundred and seventy-two.

SARAH M. STANDISH,
Guardian and Curator of Richard A. Standish, Austin D. Standish, and Monroe P. Standish.

Two witnesses:
T. M. WINSTON, JR.
W. BOLTON.

327 STATE OF MISSOURI, } *County of Cole,* } *ss:*

Be it known that on the 20th day of March, in the year eighteen hundred and seventy-two, before me, the undersigned, clerk of the county court in and for said county and State, personally appeared Sarah M. Standish, to me well known to be the identical person who executed the foregoing letter of attorney, and

the same having been first read over to her and the contents thereof explained, acknowledged the same to be her act and deed. I have no interest, present or prospective, in the claim.

In testimony whereof, I have hereunto set my hand and affixed my seal of office the day and year last above written.

[SEAL.] W. H. LUSK, *Clerk.*

Know all men by these presents that whereas we, Mildred Standish, widow of Austin M. Standish, and guardian of Richard Adolphus Standish, Austin Darcy Standish, and Monroe Parsons Standish, her minor children, of the town of Jefferson City, in the county of Cole, in the State of Missouri, did, on the twelfth day of March, A. D. 1875, recover by the determination and award of the umpire of the Mixed Commission on Mexican and American Claims under the treaty of the 4th of July, A. D. 1868, and subsequently extended, against the Government of Mexico, the sum of forty thousand Mexican gold dollars ($40,000), without interest, and the further sum of fifteen hundred Mexican gold dollars ($1,500), with interest at six per cent. per annum from the 15th of August, 1865, to the date of the final award of the commmission, to be paid in gold by the Government of Mexico to the Government of the United States of America, in respect of that certain claim, the same being No. 385, which we, the said Mildred Standish, for herself, and as guardian of her minor children, heirs of Austin M Standish, dec'd, held against the said Government of Mexico, and which was by us submitted to said commission for adjudication under and by virtue of the provisions of the said treaty, and as subsequently extended, and in reference to which said award was made, as by the record of said commission will more fully appear:

Now we, the said Mildred Standish, for herself, and as guardian of her said minor children, heirs of Austin M. Standish, dec'd, for and in consideration of the professional services rendered in our behalf in and about the preparation and prosecution of said claims before said commission by Albert Pike, Robert W. Johnson, and Luther H. Pike, of the city of Washington, in the District of Columbia, attorneys-at-law, and partners, under the firm name and style of Pike & Johnson, have sold, assigned, transferred, and set over, and by these presents do sell, assign, transfer, and set over, unto the said Albert Pike, Robert W. Johnson, and Luther H. Pike, as such partners, all our right, title, claim, and interest in and to twenty-five per centum of the aggregate amount due to us on, by, or under said award, that being the amount stipulated and agreed by us to be paid to them by way of compensation for their professional services.

328 And we do hereby give the said Albert Pike, Robert W. Johnson, and Luther H. Pike, as such partners, full power and authority, for their own use and benefit, to ask, demand, collect, receive, and give acquittance for the sum of money due on the interest hereby sold, assigned, transferred,

and set over unto them, or any part thereof; and we do hereby request the Honorable Secretary of the Treasury of the United States of America, or whomsoever may be designated to make payment of the money due on said award, to execute and deliver to the said Messrs. Pike & Johnson, at their place of business, No. 400 Sixth street N. W., in said city of Washington, unless by them otherwise requested, the proper draught or warrant in their favor for the amount of money hereby assigned and transferred to them.

In testimony whereof we hereunto set our hands and affix our seals at Jefferson City, in the county of Cole, in the State of Missouri, on this the thirtieth day of April, A. D. 1875.

Signed triplicate.

MILDRED STANDISH. [SEAL.]
MILDRED STANDISH. [SEAL.]
As Guardian for Her Children.

STATE OF MISSOURI, } ss:
County of Cole, }

Be it remembered that on this the first day of May, A. D. 1875, personally came before the undersigned, a notary public within and for the county and State aforesaid, Mrs. Mildred Standish, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument of writing, and acknowledged the same to be her act and deed for the uses and purposes therein mentioned, the said instrument being by her signed and acknowledged in triplicate.

In witness whereof I have hereunto set my hand and affixed my notarial seal this year and day first above written.

Com. dated Feb'y 12th, 1873. Qualified Mch. 1st, 1873. Com. expires Feb'y 12th, 1877.

[SEAL.]

NICK E. MILLER,
Notary Public, Cole County, Mo.

329 UNITED STATES OF AMERICA, DEPARTMENT OF STATE.

To all whom these presents shall come, Greeting:

I certify that the documents hereto annexed are true copies from the files of this Department.

In testimony whereof, I, William M. Evarts, Secretary of State of the United States, have hereunto subscribed my name and caused the seal of the Department of State to be affixed.

Done at the city of Washington, this 8th day of February, A. D. 1881, and of the Independence of the United States of America the 105th.

[SEAL.]

WM. M. EVARTS,
Secretary of State.

Know all men by these presents, that whereas, I, Stepen K. Parsons, of ———, in the County of Cole, and State of Missouri, have in my own right a certain claim against the Republic of Mexico, for compensation for the loss inflicted upon me by the

killing of my father, the late General Mosby M. Parsons, on the 15th day of August, A. D. 1865, in the State of Nueva Leon, in said republic of Mexico, by order of the military authorities of said Republic, which was duly preferred to the Joint Commission of the United States and the said Republic of Mexico, sitting in the city of Washington, in the District of Columbia, by Jackson L. Smith, Esquire, curator of my estate, under and by authority of a certain order of the county court of the said county of Cole, and that is now before the umpire chosen by the commissioners of said Governments, on the conflicting opinions filed by said commissioners, and which I am desirous of having prosecuted to its final determination, having made, constituted, and appointed, and by these presents do make, constitute, and appoint Albert Pike, Robert W. Johnson, and Luther H. Pike, attorneys and counsellors, in the said city of Washington, and partners under the firm name of Pike & Johnson, my true and lawful attorneys, for use, and in my name, place, and stead, to take charge of and prosecute the said claim to such final determination, and in such lawful manner as they shall deem best for my interest, giving and granting to my said attorneys full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intents and purposes as I might or could do if personally present at the doing thereof, with full power of substitution and revocation, and hereby ratifying and confirming all that my said attorneys or their substitutes may or shall lawfully do, or cause to be done, by virtue hereof, and all that the said Robert W. Johnson has done, or caused to be done, under the powers heretofore conferred on him by said curator, the said Jackson L. Smith, at the time of my minority in lieu of which powers conferred of him, the said Robert W. Johnson, this power of attorney to him and his partners, the said Albert Pike and Luther H. Pike is executed; and revoking all former powers of attorney or authorizations whatever granted by me in the premises, and in particular that power of attorney heretofore executed by me to one R. H. Porter, as the same was executed by me through mistake, improvidently, and without information of the nature and extent of the said powers conferred by my said curator on the said Robert W. Johnson, and that the same were irrevocable and coupled with in interest, and as I was persuaded by the said R. H. Porter, whose powers are hereby revoked, by deceit and misrepresentation of facts and by diligent concealment of other facts to execute the same to him but without intention or purpose on my part to do other than conform and carry out all the contracts, acts, and duties undertaken in the premises by the said Jackson L. Smith as curator of my estate at the time of my minority.

In witness whereof, I have hereunto set my hand and seal, this eighth day of July, A. D. 1874.

STEPHEN K. PARSONS. [SEAL.]

STATE OF MISSOURI, *County of Cole:*

Be it known, that on this 8 day of July, A. D. 1874, before me, the undersigned, clerk of the county court in and for said county and State, personally appeared Stephen K. Parsons, to me well known to be the indentical person who executed the foregoing letter of attorney, and the same having been first read over and the contents thereof explained to him by me, he acknowledged the same to be his free act and deed. I have no interest, present or prospective, in the claims.

In testimony whereof, I have hereunto set my hand and affixed my seal of office, the day and year last above written.

[SEAL.] W. H. LUSK, *Clerk.*

UNITED STATES OF AMERICA, DEPARTMENT OF STATE.

To whom all these presents shall come, Greeting:

I certify that the documents hereto annexed are true copies from the files of this Department.

In testimony whereof, I, William M. Evarts, Secretary of State of the United States, have hereunto subscribed my name and caused the seal of the Department of State to be affixed.

Done at the city of Washington, this 8th day of February, A. D. 1881, and of the Independence of the United States of America the 105th.

[SEAL.] W. M. EVARTS,
Secretary of State.

331 [160.] *General Power of Attorney.*

Know all men by these presents that I, Mary Ann Conrow, of the ——— of ———, county of Ray, in the State of Missouri, have made, constituted, and appointed, and by these presents do make, constitute, and appoint R. W. Johnson & Pike, the law firm of Pike & Johnson, true and lawful attorneys for me, and in my name, place, and stead to prosecute before the Joint Commission of the Government of the United States and the Republic of Mexico my claim for indemnity for the murder and and robbery of my husband, Aaron H. Conrow, in Mexico, on or about the 3d day of August, 1865, with full power and authority to act in my behalf in the premises, as fully as I might or could do if personally present and acting for myself; giving and granting to my said attorneys full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises as fully, to all interests and purposes, as I might or could do if personally present at the doing thereof, with full power of substitution or revocation, hereby ratifying and confirming all that my said attorneys or —— substitute may or shall lawfully do, or cause to be done, by virtue hereof, hereby revoking all prior powers of attorney executed by me in this behalf.

In testimony whereof, I have *have* hereunto set my hand and seal, this 28th day of August, 1872.

MARY ANN CONROW. [SEAL.]

Witnesses:

—— ——. [SEAL.]
—— ——. [SEAL.]

STATE OF MISSOURI, } *ss:*
County of ——, }

Be it remembered that on this 28th day of March, A. D. 1872, the undersigned, clerk of the C. common pleas court within and for the county of Ray and the state of Missouri, personally came Mary A. Conrow, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument of writing, as party thereto, and acknowledged the same to be her voluntary act and deed for the uses and purposes therein mentioned.

In testimony whereof, I have hereunto set my hand and affixed my official seal, at my office in Richmond, the day and year first above written.

[SEAL.] JOHN T. QUIRK, *Clerk.*

332 Know all men by these presents, that I, David H. Conrow, of the —— of ——, county of Ray, in the State of Missouri, have made, constituted, and appointed, and by these presents do make, constitute, and appoint, R. W. Johnson & Pike, of the law firm of Johnson & Pike, true and lawful attorneys for me, and in my name, place, and stead to prosecute before the Joint Commission of the Government of the United States and the Republic of Mexico my claim for indemnity for the murder and robbery of my father, Aaron H. Conrow, in Mexico, on or about the 3d day of August, 1865, with full power and authority to act in my behalf in the premises as *I* fully as I might or could do if present and acting for myself, giving and granting to my said attorneys full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises as fully to all intents and purposes as I might or could do if personally present at the doing thereof, with full power of substitution or revocation, hereby ratifying and confirming all that my said attorneys or substitute may or shall lawfully do, or cause to be done by virtue hereof, hereby revoking all other powers of attorney executed by me in this behalf to any one else.

In testimony whereof, I have hereunto set my hand and seal, this 28th day of March, 1872.

DAVID H. CONROW. [SEAL.]

Witness:

—— ——. [SEAL.]
—— ——. [SEAL.]

Before the Honorable Secretary of State of the United States of America.

In the Matter of the Payment of the Award made in favor of MARY ANN CONROW by the Joint Commission of the United States and Mexico.

Statement of Mary Ann Conrow, respectfully submitted for the consideration of the Honorable Secretary of State.

I, Mary Ann Conrow, make oath and state that I am the identical Mary Ann Conrow in whose favor an award was
320 made on the 13th day of March, A. D. 1875, by the umpire of and to the Joint Commission created under and in pursuance of the treaty made and entered into by and between the United States and Mexico on the 4th day of July, A. D. 1868, and subsequently extended.

That the claim upon which said award was made in my favor was for compensation for the robbery and murder of my husband, Aaron A. Conrow, in the Republic of Mexico, by Mexican soldiery, on or about the 16th day of August, A. D. 1865.

That at the time it became necessary for me to present my said claim to said joint commission for its consideration and adjudication, I knew not how to make the statement of my claim in formal manner, nor the course it would be necessary for me to pursue in order to make proper presentation of it, and thereafter to continue its prosecution; neither did I know by what character or amount of testimony it would be necessary for me to support my claim, nor had I knowledge of the names or whereabouts of the persons by whose testimony my said claim could be fairly sustained, nor had I the means wherewith to defray any of the expenses that I know would necessarily be incurred in the preparation, presentation, and prosecution of my said claim.

I recognized my dependence upon the aid of some person learned in the law, who possessed the knowledge and information requisite and necessary to enable him to properly prepare, present, and conduct the prosecution of my said claim before said commission, and who could and would expend the money that would have necessarily to be paid out in defraying the expenses that would be incident to said preparation, presentation, and prosecution of my said claim.

Under these circumstances, I having full confidence in the skill, ability, and integrity of Richard H. Musser, a gentleman of high professional attainments, then residing and practicing law in the city of St. Louis, State of Missouri, and he expressing his willingness to prepare, present, and prosecute my said claim to its final termination, and to defray all the expenses incident thereto, I entrusted my claim to him therefor, upon an understanding and agreement entered into by and between us, and duly reduced to writing in the form of a letter of attorney,

executed and delivered by me to him, wherein I recited that I conferred upon him full power and authority to take charge of my said claim, and representing me to do each and every act requisite and necessary to be done in and about the preparation, presentation, and prosecution of my said claim, and that in consideration thereof, and of his defraying all the expenses that would be necessarily incident thereto, I stipulated and agreed that he should have as compensation therefor a full and equal one-half of whatever amount of money should be awarded me on my said claim.

This letter of attorney I executed and delivered to said Richard H. Musser on the 10th day of December, A. D. 1869.

321 Afterward I, at the suggestion and with the full knowledge and approval of said Richard H. Musser, I executed and delivered my letter of attorney, bearing date the 28th day of March, A. D. 1872, to the law firm of Pike and Johnson, of the city of Washington, in the District of Columbia, said firm being composed of Albert Pike, Robert W. Johnson, and Luther H. Pike, authorizing and empowering them to act as attorneys for me in the further prosecution of my said claim; my understanding and agreement with said Pike & Johnson and said Richard H. Musser being that I should not be under any obligation by reason of my employment of said Pike and Johnson to make or allow any other or further compensation for or on account of the services that should be rendered by said Pike and Johnson in and about the prosecution of my said claim than the full and equal one-half of whatever sum of money should be awarded to me on my said claim that I had originally stipulated and agreed to and with said Richard H. Musser to allow him, as I have hereinbefore stated.

That I have never executed any letter of attorney, or given any employment whatever in and about the preparation, presentation, and prosecution of my said claim to any person in the world other than to the said Richard H. Musser and said Pike and Johnson, neither have I ever recognized or acknowledged any person whomsoever other than said Richard H. Musser and said Pike and Johnson as my attorneys, or as charged with the performance of any work or duty, or clothed with any power or responsibility whatever in connection therewith, or in relation thereto, nor have I ever entered into any agreement or understanding with any person whomsoever other than said Richard H. Musser and said Pike and Johnson for allowance of any portion whatever of the money awarded me on my said claim as compensation either for duty performed, service rendered, or obligation or expense incurred in regard either to the preparation, presentation or prosecution of my said claim; nor have I ever understood or recognized any person other than said Musser and said Pike and Johnson as having any right, title, interest, or claim in or to any portion thereof, or any account whatsoever, or as having any right or claim against me, either for service rendered, work done, or expense or obligation incurred for, or

on account of, or in connection with the preparation, presentation of my said claim.

That from the moment I entrusted my said claim to said Richard H. Musser, as I have hereinbefore stated, I have corresponded exclusively with said Richard H. Musser and said Pike and Johnson in regard to its preparation, presentation and prosecution, and subsequent to the making of said award in regard to the payment thereof.

That to the best of my knowledge, information, and belief all the expenses incurred in the preparation, presentation, and prosecution of my said claim have been borne by said Richard H. Musser and by said Pike and Johnson; that all the proof on which my said claims was tried and adjudged was procured by said Richard H. Musser, and, in fact, that it is solely to the industry, fidelity, skill, and ability of said Richard H. Musser and said Pike and Johnson that the allowance of said award in my favor can be be justly attributed.

322 That it is my belief, based both upon my personal knowledge and upon information I have received, that said Richard H. Musser and said Pike and Johnson have faithfnlly carried out the stipulations of the contracts they entered into with me. I know that the expenditures of time, labor, and money has resulted in an award entirely satisfactory to me, and I recognize them as justly entitled to have and receive under their said contract with me an equal one-half of the money awarded to me on my said claim, as fairly and fully earned by the attention given by them to the preparation, presentation, and prosecution of my said claim, and by and through the expenses they have borne in connection therewith.

I further state that I have had personal knowlege that one Richard H. Porter has claimed to be my attorney in and about the preparation, presentation, and prosecution of said claim before said joint commission; that he prepared said claim for the first time, so far as I had knowledge or information, in the year A. D. 18—, with covert thereto that if I should not recognize him as my attorney, accede to his demand, and intrust to him the prosecution of my said claim, he would act in hostility to me and would defeat my claim.

That he based his said claim to be my attorney on the assertion that he had employed said Richard H. Musser as his agent to obtain from me my letter of attorney to him, Porter, authorizing and empowering him as such to prepare, present, and prosecute my said claim before said joint commission; and that said said Richard H. Musser had perpetrated a fraud on him, Porter, when he, the said Richard H. Musser, took my said letter of attorney and contract to himself instead of to him, Porter; and upon this other assertion, that he, Porter, had a valid assignment to himself from said Richard H. Musser of the letter of attorney and contract I had originally executed and delivered to said Richard H. Musser, as I have hereinbefore stated, whereby the said Richard H. Musser had substituted him, Porter, in

place and stead of him, the said Richard H. Musser, as my attorney in and about the prosecution of my said claim before said joint commission, to every intent and purpose whatever, and to each and every the right of said Richard H. Musser under my said contract with him.

That at the time I executed and delivered to said Richard H. Musser my letter of attorney and contract, as I have hereinbefore stated, I had neither knowledge nor information of the existence of said Richard H. Porter. It was only said Richard H. Musser that I then thereby intended to constitute my attorney; it was for his services that I contracted, and it was only in consideration of his services and the expenses he should defray that I contemplated or agreed that he should have the full and equal one-half of the money to be awarded me on said claim. I had then no knowledge, information, or belief that I was contracting for the services of said Richard H. Porter, or for allowing him, in consideration thereof, any portion of, or right, title, claim, or interest in and to the money that should be awarded me on said claim.

323 That the said Richard H. Musser duly advised me that he claimed that said Richard H. Porter had, without his consent or knowledge, and in a surruptitious and illegal manner, obtained possession of the original letter of attorney and contract I had so executed and delivered to him.

That being so advised by said Richard H. Musser, I promptly and positively refused to recognize said Richard H. Porter as my attorney, and to have correspondence with him as such attorney or otherwise, in regard to the prosecution of my said claim, and I have ever continuously and consistently, up to this present time, refused to recognize said Richard H. Porter as my attorney, and have had no correspondence with him, or with any one claiming under him in regard to my said claim, and I do not now recognize him or any one claiming under him as my attorney, or as having any claim against me or my full and equal one-half of the money awarded me on my said claim for, or any account whatever.

I further stating that inasmuch as my contract was originally with said Richard H. Musser, and as I declined from as early a day as the 15th day of March, A. D. 1872, to recognize said Richard H. Porter as my attorney, as also to enter into any contract or agreement with him, that, therefore, if said Porter or any one claiming by, through, or under him has any claim or right in the premises, it has been, and is, against said Richard H. Musser and not against me; and that inasmuch as the said Porter and any and every one claiming by, through, or under him has had the most ample time and opportunity to have long since established, by judicial proceedings, the existence and validity of any valid claim or right existing either against me or said Richard H. Musser, and inasmuch as said Porter and any one claiming by, through, or under him, has wholly failed to avail himself of such time and opportunity, respectfully submit for

the consideration of the Honorable Secretary, as follows, that is to say:

1st. Whether I or my said attorneys, Richard H. Musser and said Pike and Johnson, should be now hindered or delayed in the receipt or enjoyment of our respective portions of the money now in the custody of the Honorable Secretary, and to be be paid out by him in pursuance of the act of Congress approved June 18th, 1878, for and on account of the award so made in my favor on my said claim by reason of any adverse or hestile claim preferred by said Richard H. Porter, or by any on else claiming by, through, or under him.

2d. Whether it is not consistent both with law and equity, that I and my said attorneys be immediately paid by the Honorable Secretary our respective portions of said money now in his custody, and that said Porter and any one claiming by, through, or under him be remitted to his suit at law, or in equity, as he may be advised, for the establishment of any claim he may prefer in the premises.

And hereupon I submit this, my respectful request, to the Honororable Secresary of State, to wit:

324 That he divide, or cause to be divided, the said sum of money into three parts, one for one-half and two for each one-fourth said sum, and that he draw or cause to be drawn and issued in my favor separate draft or warrant on and for each such part; that he thereupon mail, or cause to be mailed, direct to me at my post-office address, Richmond, Ray county, Missouri, the draft or warrant drawn and issued on and for said one-half part of said money; that he mail, or cause to be mailed, direct to my said attorney, Richard H. Musser, at his post-office address, Brunswick, Chariton county, Missouri, one of said drafts or warrants drawn and issued on and for one of said one-fourth parts of said sum of money; and that he mail, or cause to be mailed, direct to my said attorneys, Pike and Johnson, at their post-office address, No. 602 D street N. W., Washington, District of Columbia, the other one of said drafts or warrants drawn and issued on and for the other one of said fourth parts of said sum of money.

Witness my hand and seal at Richmond, Ray county, Missouri, this 19th day of December, A. D. 1878.

MARY A. CONROW. [SEAL.]

Signed and sealed in the presence of—
1. D. A. QUESENBERRY.
2. WM. S. CONROW.

STATE OF MISSOURI, } *sct:*
County of Ray, }

Be it known that on this 19th day of December, in the year of our Lord one thousand eight hundred and seventy-eight, before me, A. A. McCuistion, clerk of the county court, a court of record, in and for said county and State, personally appeared

Mary A. Conrow, to me well known to be the individual person who executed the foregoing statement, and acknowledged the same to be her free act and deed. I have no interest, present or prospective, in the sum of money named in the said statement.

In testimony whereof, I have hereunto set my hand and affixed my seal of office, the day and year last above written.

[SEAL.] A. A. McCUISTION,
Clerk County Court.

Witnesses:

____ ____.
____ ____.

Know all men by these presents, that whereas, we, the undersigned, under and by virtue of certain letters of attorney, agreements as to fees, and assignments of interests executed and delivered to us respectively by Sarah Mildred Standish, Mary Ann Conrow, Jackson L. Smith, as curator of Stephen Kearney Parsons, and the said Stephen Kearney Parsons, in whose favor, respectively, awards were made by the umpire to the late Joint American and Mexican Claims Commission, in the cases numbered respectively 382, 392, and 397, are claimants to certain proportionate shares of said respective awards, do hereby, for and in consideration of the sum of thirty thousand dollars to us in hand paid at and before the making of these presents by Stephen V. White, of the city of New York, assign, set over, and transfer unto the said Stephen V. White all our right, title, claim,
and interest that we jointly or severally have in and to said
334 portions of said awards, and in and to and under said letters of attorney, agreements as to fees, and assignments of interest, and all original letters, papers, and documents in regard to said awards, and the making of said letters of attorney, agreement as to fees, and assignments of interests held and controlled by us jointly or severally, herewith delivered into the possession, custody, and control of the said Stephen V. White, and we jointly and severally do hereby request and authorize the Secretary of the State of the United States to recognize said Stephen V. White as hereby fully substituted in our room, place, and stead, and clothed with each and every right and power possessed by us as such claimants, jointly and severally, and we do hereby agree to make at any time hereafter, upon the request of the said Stephen V. White, any and every instrument of cession, transfer, or assurance to said Stephen V. White neccessary to give full effect to this assignment.

Signed at Washington city, in the District of Columbia, this the twelfth day of February, in the year of our Lord one thousand eight hundred and seventy-nine.

PIKE & JOHNSON.
RICH'D H. MUSSER.

[The following are copies from bill of Thomas P. MacMann's *vs.* Richard H. Porter, in the matter of said awards and the assignments thereof.]

IX. That thereafter, to wit, on or about the 21st of February, 1877, said defendant Porter undertook to make an assignment and transfer of the whole one-half of said claim to which he had been originally entitled, under his substitution as aforesaid, as attorney of the claimants unto the defendant, S. V. White, for an advance of money to himself for the personal uses.

That said defendant Porter, now acting in conjunction with said White, and under the protection of the several assigments to said White, which have been mentioned in the original bill in this supplement, in fraud of the rights of your complainant and of his several assignments made prior to any purchase by or assignment to said White, of all which said White had actual and also constructive notice, is endeavoring to obtain the said fund (to wit, one-half of the award to said claimants), and without the interposition of your honorable court the complainant is advised and believes that said defendants will succeed in obtaining such funds.

[The following is the sworn answer of Richard H. Porter, to said averments in said cause.]

3. In answer to the third paragraph of said bill, respondent says: He has been at great expense in the prosecution of said claims. He was compelled to borrow money thereupon in the winter of 1876, and 1877, respondent borrowed money of Mr. S. V. White, of New York, and pledged respondent's interest in said claims of Standish and Parsons as collateral security for the payment of respondent's note. That when said note matured respondent was unable to meet it, when a proposition was made to purchase respondent's interest in two of the claims which respondent accepted as the best thing he could do
16 under the circumstances. It was with great reluctance respondent did accept said proposition, but would not have done so if respondent had supposed that said White intended to complicate said matters by any negotiation with Messrs. Pike and Johnson.

127-235

127-235

FILED
APR 12 1888
JAMES H. McKENNEY
CLERK

Supreme Court of the United States.

OCTOBER TERM, 1887.

RICHARD H. PORTER, *Appellant*,
vs.
STEPHEN V. WHITE, *Appellee*.
No. 221.

BRIEF OF APPELLANT'S COUNSEL.

MILANS, PR., 519 7TH STREET, N. W.

Supreme Court of the United States.

OCTOBER TERM, 1887.

RICHARD H. PORTER, *Appellant*,
vs.
STEPHEN V. WHITE, *Appellee*. } No. 221.

STATEMENT OF THE CASE.

The bill in this case was filed on the 27th of April, 1885, waiving answer under oath, and alleges in 1865, Austin M. Standish, Monroe M. Parsons, and Aaron H. Conrow, citizens of the United States, while traveling in the Republic of Mexico, were killed by the Mexican authorities; that in 1869 and 1870, the complainant, appellant here, was authorized by powers of attorney from the legal representatives of the said Standish, Parsons, and Conrow, to prosecute before the joint commission of the United States and Mexico for the settlement of claims of the citizens of the United States against the Government of Mexico, and of the claims of citizens of Mexico against the Government of the United States, the claims of the estates of said Standish, Parsons, and Conrow against the Mexican Government for the unlawful killing of said persons; that his contracts accompanying the powers of attorney stipulated he should be entitled to the one moiety of whatever sums might be awarded by the commission to the legal representatives of the parties named, as compensation for his services in prosecuting the cases; that appellant prosecuted the cases to suc-

cess, and in the year 1874 or 1875, the commission awarded to the legal representatives of Standish $42,486.30; to the legal representatives of Parsons $50,828.76; to the legal representatives of Conrow $50,497.26; that by virtue of appellant's contract he became entitled to the one half of these sums, respectively, and the legal representatives aforesaid recognized his right to the moieties; that the awards were paid in annual instalments; that at the time of filing this bill something over $20,000 was in the custody of the Secretary of State of the United States, applicable to the moieties; that in 1876, the appellant borrowed from the appellee at different times, and in several amounts, about $5,000, and secured the appellee by giving a lien upon appellant's moiety in the Parson's award, (record, p. 1); that subsequent, in 1877, appellant borrowed an additional sum from appellee, aggregating, with what was borrowed before, about $7,000; that as a condition of making the loan appellant made an absolute assignment of his moiety of the Standish award; that said assignment was only intended as a security for the money borrowed; that certain persons claiming obligations against appellant, filed claims with the Secretary of State against appellant's interest in said fund, which embarrassed the Secretary, and he refused to pay the appellant his interest in the awards until the rights of all parties making claims upon the fund should be settled; that the appellee representing to appellant that, from his intimate terms with the Secretary, he could procure the payment of appellant's interest in the awards if appellant would empower him; believing the representations, the appellant gave the appellee powers of attorney to collect the Standish and Parsons cases, but also the Conrow case, in which the appellee had no interest; that the appellee refuses to recognize the appellant's right to the moiety in the Conrow case, but claims he has purchased the same therein from

one Richard H. Musser, (record, p. 2); that the appellee was acting as the attorney of the appellant while he was pretending to buy up claims against appellant's interest in the funds, (record, p. 3); that the Secretary of State decided that none of the claimants had any lien upon the fund, except the appellant and the appellee, and that he would pay the sums under his control applicable to the three moieties upon the joint receipt of the appellant and the appellee. (Record, p. 3).

On May 17, 1881, the appellee filed his answer. (Record, p. 5). The appellee, in his answer, denies the appellant had powers of attorney from the legal representatives of the parties to prosecute the cases; denies appellant was promised, in any such power of attorney, a moiety or other per centage for his services; denies that the appellant prosecuted the claims to judgment, but admits judgments were awarded in the cases for the sums stated; admits the awards were to be paid by Mexico, in annual instalments; admits that up to the time of filing the bill there were over $20,000 awaiting distribution; admits that at the time of filing the bill the Secretary had informally gone to the extent of deciding that none of such assignees or partners had any lien upon said fund, and that he was then informally proposing to pay the same on the joint receipt of these litigants, but that the Secretary has since paid the appellee. (Record, p. 6).

The answer further avers that the claimants made executory contracts with Musser and executed powers of attorney to him to prosecute the claims; that about that time there was a verbal contract made between Musser and appellant, whereby it was agreed that appellant should furnish the money and Musser do the legal work, and the two should divide the fees of Musser under the contract; that appellants failed to furnish the money, and in 1871 or 1872, the two quarreled and appellant undertook to settle the affairs

by dismissing Musser from the retainer under the contract; that Musser, by agreement with claimants, retained Messrs. Pike & Johnson; that about February 12, 1879, Musser and Pike & Johnson, for $30,000, sold, assigned, and transferred said moiety to appellee. (Record, p. 7).

Replication to the answer was filed October 12th, 1881. (Record, p. 11).

Testimony was taken in the cause as to which reference is hereafter made, and upon hearing of said cause at special term holding an equity court. The following decree was passed February 27th, 1883.

This cause came on to be heard at this time, and was argued by counsel: on consideration whereof the court finds that the plaintiff is entitled to the one full equal half of the attorneys' fees, in the awards against Mexico, by the joint United States and Mexican Commission, in the case of Mary Ann Conrow, referred to in the bill and proceedings in this case, and the defendant is entitled to the other half. It appearing to the court that the defendant, White, has been recognized by the State Deparment, as entitled to the whole of the said attorneys' fees in said award, and that he has already been paid by the State Department, from the instalments heretofore paid by Mexico, upon said award, the following sums at the times following, to wit: on the 5th day of May, 1881, $8,896.81; on the 11th day of April, 1882, $1,806.06, and that there is now on hand in the State Department, the sum of $1,806, applicable to said attorneys' fee in said Conrow case, and that there are seven more annual instalments to be paid by Mexico, upon said award, it is, this 27th day of February, 1883, ordered, adjudged and decreed, that the said defendant do, within five days from this date, pay to the solicitors of said complainant Porter, the one half of the said sums by him heretofore received upon said awards, with interest thereon, at the

rate of six per cent. per annum, form the times of payment to him as aforesaid, to wit: $4,448.41, with interest from the 5th day of May, 1881, and $903.03, with interest thereon from the 11th day of April, 1882; that said defendant assign and transfer to the plaintiff, by such form of conveyance as will be recognized by the State Department the one equal half of the payment yet to be made by Mexico upon said awards, applicable to attorneys' fee, including the amount now in said department, applicable to said purpose, and that the defendant pay the costs of this suit within ten days, or that in default thereof, as well as in default of the payment of the amount found due to the said Porter, execution do issue therefore as upon judgment at law. (Record, pp. 61, 62).

From this decree the appellee appealed to the court in general term.

Upon hearing in the general term, and after argument the said court, on the 24th day of December, 1883, reversed the decree of the special term, and dismissed the bill with costs, from which decree the camplainant prayed his appeal in open court to this court, which was allowed. (Record pp. 63, 64).

ASSIGNMENT OF ERRORS.

1. The court erred in reversing the decree of said special term.

2. The court erred in not granting the relief prayed for in the bill.

3. The court erred in dismissing the complainant's bill.

POINTS AND ARGUMENT.

The scheme of the bill was that the assignment of both the Parsons and Standish awards to the appellee

White, were made as a mortgage to secure the payment of money lent upon them, and that the Conrow case had never been pledged or hypothecated to said White, nor had he advanced any money to the appellant upon the faith of the Conrow case; but that complainant simply transferred it to White for collection, and, he failing to render an account, or to pay over the same to the appellant, the appellant had a right to revoke the authority given to White to collect the same. (See the power of attorney given by the appellant to the appellee, dated July 20, 1878, record, p. 31; and the revocation of said power of attorney by the appellant of May 31, 1879, record, p. 32).

The special term, however, found that the Parsons and Standish awards were sold to appellees absolutely, and were not intended as and for a mortgage. But that as to the moiety of the Conrow award which was applicable to the attorneys' fees, the appellee was entitled to one half, or one fourth of the whole, and the appellant to the other, as per decree of the special term, (record, pp. 61, 62). From that decree the appellant did not appeal and he is therefore concluded by it.

It will not, therefore, be necessary to enter into any examination or discussion of the questions raised by the pleadings as to the character of the assignments of the Parsons and Standish awards by Porter to White and we assume, therefore, that that branch of the case is settled against us. The contention is, therefore, limited to the right of Porter to the one half of the attorneys' fees in the Conrow case.

The appellee claims that he is entitled to the whole of this fee in virtue of his purchase from Musser and Pike & Johnson and so the court in general term found and decreed, but reversed the court in special term, as to the finding and decreeing of the one half to each in the Conrow fee. (See decree of general term record, p. 63).

In order to determine this question it will be necessary to reveiw the facts as they appear in the record.

The testimony of Porter shows that in 1869 he was sojourning in Washington engaged in prosecuting claims against the Goverment and that he chanced to hear of the existence of these cases in a conversation with one John Chiles, who was engaged in the same business. As the result of this conversation Porter, some months after, went to Missouri with the veiw of looking up and procuring these claims to prosecute.

He called upon his friends Colonel Remmick and General Shields, who were living in St. Louis, to recommend him to some young man, who had sufficient legal skill to take depositions and prepare powers of attorney, as he wished to employ such an one to assist him in getting these three cases and preparing the evidence in their prosecution.

Shields and Remmick recommended Col. Musser, who was practicing law in that city. It seems that Porter had known Musser long before in Kentucky, and knew that he was well advanced in life and supposed he would be too expensive for him to employ, but his friends assured him that he could procure Musser's services as cheaply as those of any one, and he thereupon called upon Musser; told him that he wanted to get powers of atttorney from the legal representatives of these three murdered men, and that he would pay him for doing it. Musser agreed to do it, while Porter went to Independance to attend to other business. Porter gave Musser a copy of such a power of attorney and contract as he wanted, containing his, Porter's, name as attorney in fact, with a power of substitution. He wanted them with the power of substitution, as he expected to employ some attorney in Washington, and substitute his name; so as to enable him to appear and prosecute the claims; Musser procured the powers of attorney and contracts, in writing in each of these

cases for fifty per cent. of the recovery for fees, Musser's name was inserted as attorney instead of Porter's name. When Porter returned to St. Louis, in the winter of 1870, and Musser showed him the powers of attorney, Porter complained of this and told him that "was not our agreement," Musser said he meant nothing by so doing, that he thought as they knew him and he was present, they would more willingly give the powers of attorney and contract to him than to me, and as the powers of substitution were complete, they answered the same purpose for him, to substitute me as though I was originally mentioned in the powers of attorney. This preliminary history is given by the appellant in his evidence on pp. 11 and 12 of the record.

The appellee, in his answer, makes a general denial to this, but the oath to the answer being expressly waived by the bill, is not evidence. (See amendment to rule 41, of this court, and the same rule is adopted in the court below, being equity rule 63).

The testimony of Porter is corroborated by General Shields' affidavit, (record, p. 18,) as to its essential statements. It is no where denied in the evidence.

Musser is living and his testimony might have been taken to contradict it if it had not been true, and his absence not accounted for, we have a right to assum that he would not have contradicted it or he would have been called as a witness.

There is no dispute about the fact that Musser did substitute Porter as attorney in each of the cases by endorsement on the powers themselves, record, p. 11, as to Parsons case, p. 21 as to Conrow case, and p. 22 as to Standish case.

Of course the legal effect of these substitutions was to make Porter the attorney in all of these cases instead of Musser, and Musser had no further interest in them unless it was reserved by oral agreement or other agreement in writing.

Musser admitted, June , 1871, that he had substituted Porter, and turned over to him the contracts and papers, Musser's letter to Rittenhouse. (Record, p. 14).

Porter testifies that he employed attorneys here who, together with him, prosecuted the cases to the final extraordinary awards, (record, p. 34,) and Quiesenberry's letter to Porter, of March 13, 1882, (record, p. 34). The record shows that Musser did aid in taking the testimony, (Musser's letter to Porter, January 7, 1870, record, p. 22,) but Porter claims that he fully paid Musser in money at the time for all the services he rendered, according to the terms of the original employment, and that he had no interest in the fees secured under the contracts with the claimants. (Record, p. 27).

Musser disputed this, and in 1872, employed Pike & Johnson, but at that time the evidence in the cases had been closed, the printed arguments filed by Winder and the cases were awaiting hearing. Porter testifies, (record, p. 14,) that Pike & Johnson never did anything in the prosecution of the cases except to endorse their firm name upon the printed arguments prepared and filed by his counsel, Winder.

No one has disputed this, or even attempted to deny it in the evidence. Mr. Johnson is dead, and Mr. Musser was not examined as a witness, nor was his absence accounted for. General Pike was examined as a witness, by the appellant, but the appellee did not call him to disprove it, nor did he ask him when on the stand as to whether it was true or not. So we may assume that this statement of Porter's is true.

The awards were for most extraordinary amounts, and the testimony of ex-Senator Pomeroy shows that the umpire was influenced in making awards from the facts and arguments presented by him to the umpire; that he repeatedly urged the allowance of Porter's

claim for the whole of the fees before the State Department, and that he never knew that any other person than Porter and his attorneys were connected with the prosecution of the cases, until long after the awards were rendered. (Record, p. 36).

We do not claim, however, that we can measure the relative value of the services performed by each in the prosecution of these cases. We admit that in the absence of any agreement to the contrary each would be entitled to an equal share in the fees earned as was decided by this court in Denver & Peck *vs.* Hughe's executors.

We have gone into the services of the respective parties thus far for the purpose of showing that the court in general term erred in finding that Porter was not entitled to any part of the fees in the Conrow cases.

The defendant in his answer on record, p. 7, admits that there was a verbal agreement between Musser and Porter, by which there was to be a division of fees under the contracts with the claimants; but he sets up that Porter did not furnish the money to carry on the cases as he had agreed to do, and that he was ignorant, and, therefore, he ought not to have any share of the fees.

Since this case was decided below, the case of Peugh *vs.* White and Porter, (112 U.S., p. 737,) has been decided in this court, and upon that case the whole record containing the history of the original employment of attorneys and of the prosecution of the cases, and the persons by whom the prosecutions were carried on was before the court.

This court found that the agreement between Musser and Porter was that "each should have an equal interest in the prosecutions and proceeds of the claims in case of recovery," and the opinion and decree of Justice James in special term in this case was thereby sustained.

Porter and White were both parties to that suit, as defendants, and of course, concluded by the findings and judgment.

It being established there that the original agreement between Porter and Musser was that they were to equally share in the fees in these cases. How has Porter been divested of his interest in the fees in the Conrow case? Judge James decided that he had *sold* his interest in the Parsons and Standish cases to White, and we are bound by that decree. By the same decree Judge James found that Porter was entitled to one moiety of the fee in the Conrow case.

It is for Mr. White to show how Porter has lost his right to his share of the fees in the Conrow case. How does he do it?

He says that in February, 1879, he purchased from Musser and Pike & Johnson, the fees in these cases. (Record, p. 50). He claims to have purchased from them the entire fees in these cases, amounting to $71,906.16 for $30,000.

The fact we deny, and he has not introduced a word of evidence, oral or written, to sustain his claim.

The fact that Musser had transferred one half of his interest in the fees to Pike & Johnson, did not enlarge his share as between him and Porter. If before the transfer to Pike & Johnson he owned one half of the fees, after he owned but the fourth, and they a fourth. General Pike says, (record, pp. 41, 42,) this was all they claimed to own, and all they undertook or pretended to sell, and he says further that Mr. White so understood it at the time.

Mr. White in his cross-examination (record, p. 50,) says that Musser, Pike & Johnston sold him one half the fees.

He has not thought it worth while to take the testimony of Musser, and we are, therefore, at liberty to

assume that Musser would not have sustained him, Johnson is dead and Pike contradicts him. On page 57 of the record, White admits, in reply to cross-question 20, that he had a letter from Pike stating that he had purchased from Pike & Johnson and Musser but one half the fees.

Is Mr. White's view at all probable—the aggregate fees in the three cases amounted to $71,906.16; some part, probably, $15,000 or $16,000 of which was already in the hands of the Secretary of State ready to be paid so soon as the controversy was determined as to who was entitled to receive it? It was already in judgment, and the United States was practically responsible for it, and was collecting it without cost or trouble to the claimants.

Is it possible that such men as Pike & Johnson and Musser would have made such a bargain. But it is totally immaterial whether Musser, Pike & Johnson assumed to sell White seventy-two thousand dollars of good judgments for $30,000, a large part of which was ready to be realized at once, or not, they only owned the one half of it and had no right or power to sell more. The other half, as this court has found, belonged to Porter, and he claimed to own the whole.

Mr. White does not claim to be entitled to the fees in the Conrow case by any other title than this purchased from Musser, Pike & Johnson. In his answer on page 7, paragraph 7, he claims to have purchased for $30,000, from Musser, Pike & Johnson the whole of the fees in these three cases, and that Porter fraudulently sold him the fees in the cases of Porter and Standish, but he does not claim to have bought from Porter any interest it the Conrow case.

In his examination in chief, as a witness, he says nothing about it, but upon cross-examination, (record, p. 15,) question 21, he was asked, "Do I understand

you to mean that all the interest you have in the Conrow award was purchased from Pike & Johnson and Musser? Am I correct?

Answer. "I desire to be so understood.

Question 22. "In 1877 did you not write to Porter that he would have to look after the collection of the Conrow award himself?

Answer. "I say no, not in 1877; I think, however, I did in 1878.

Question 24. "Have you not sworn in your answer to the bill filed by McManus, being in equity case No. 6382, to the following: this defendant further answering denies that any assignment or pretended assignment was ever made by defendant, Porter, to this defendant of the claim of Conrow *vs.* Mexico.

Answer. "I state that I have not the papers in McManus, 6382 equity before me, but I think I swore in substance as stated, and if I neglected it then I make it sure by so swearing now," also (record, p. 50).

Question. 16. "Did you ever hand Porter any money on the Conrow award?

Answer. "No.

Question 17. "Did you ever purchase or pretend to purchase of Porter any interest whatever in the Conrow award?

Answer. "No."

In the letter from White to Porter, dated July 17, 1878, (record, p. 19,) he says:

"I have kept the Dept. of State advised that I would be in attendance when they were ready to act, about Aug. 1st, in my two cases of Standish and Parsons. In the Conrow case you must act, as I have no regular power of substitution."

As, therefore, Mr. White bases his claim to the Conrow fund solely upon the assignments to him by Musser and Pike & Johnson, and as they covered but the one half of that fund Porter is, of course, en-

titled to the other half, and the decree of Justice James giving it to him was right and the decree of the general term reversing it was erroneous and should be reversed.

There is no formal proof in the record of the award by the joint commission in favor of Conrow, but it is averred in the bill, p. 1, to have been for $50,497.26, and is admitted in the answer. (Record, p. 6, paragraph 1).

The decree of the special term against White was, that he pay to the solicitors of the plaintiff the one half of the amounts that he had been paid by the State Department upon the Conrow award, up to the time of its rendition of the decree, February 27, 1883, and that he assigned to the plaintiff one half of the payments then remaining unpaid.

There was no prayer for a money decree against White in the bill, for the reason that at the time of filing it no money had been paid to White by the Secretary of State.

Mr. Evarts who was Secretary of State at the filing of the bill had decided that he would not pay the money, except upon the joint receipt of the plaintiff and the defendant, (record, pp. 6 and 8,) and hence having no other remedy the plaintiff filed this bill. Before the answer was filed Mr. Evarts had been succeeded in office by Mr. Blaine, whom Mr. White succeeded in persuading to pay him the fund that had accumulated to May 5, 1881, in the department, from the instalments paid in by Mexico, and the payments were continued to be made to him to the end of his term, as also through that of his immediate successor Mr. Frelinghuysen.

Mr. White in his answer, (record, p. 9, paragraph 12,) states that the Secretary has paid him ten instalments up to May 5, 1881, and in his evidence, (record, pp. 45,

46,) says: "since the commencement of this suit, two Secretaries of State, Hon. James G. Blaine and the present Secretary of State, Mr. Frelinghuysen, have paid me the instalments then due, against the protest of the plaintiff and in opposition to and overruling his title."

It was upon the data furnished by Mr. White, that the court in special term made its decree under the prayer for general relief.

It is due to the present Secretary, Mr. Bayard, to say that he has refused to continue to pay Mr. White and stands by the original decision of Mr. Evarts, that the courts must decide between the parties to whom the fund belongs.

We must be permitted to say that in our opinion it was an extraordinary assumption of official power on the part of Mr. Blaine and Mr. Frelinghuysen to assume to take the adjudication of this case from the judicial tribunals where it was pending and to which it had been sent by the eminent lawyer who preceded them in the office of Secretary of State.

Mr. White, in his answer, (p. 9, record,) sets up that the act of Congress of June 18, 1878, relating to this subject clothed the Secretary with *quasi* judicial powers to decide what parties are entitled to the funds paid by Mexico on these awards, and he pleads the payments to him by the two Secretaries as *res adjudicata*.

But if the doctrine of *res adjudicata* would apply to the Secretary's decisions, why not to the first decision which was that the Secretary would not pay except upon the joint receipt of the parties, and if the doctrine applies at all why not to the last decision, which was that the Secretary would not pay but would leave it to the courts where it was pending? Mr. White will scarcely seriously make that question in

this court, and if he should it is conclusively settled by the Peugh and White case, *supra*.

As the court will perceive the most of the evidence in the record was taken with reference to the controversy as to whether the Parsons and Standish assignments were absolute deeds or equitable mortgages; but inasmuch as the decision of Justice James has eliminated that question, it will not be necessary to trouble the court with any reference to the testimony relating to that contention.

The only question now before the court is, whether Porter is entitled to the one half of the fees in the Conrow case or not, and we most respectfully submit that upon the law and evidence that cannot be a question of doubt.

S. S. Henkle,
J. J. Johnson,
Wm. E. Earle,
Counsel for Appellant.

127-235

127-235

Office Supreme Court U. S.
FILED
APR 12 1898
JAMES H. McKENNEY,
CLERK

Supreme Court of the United States.

RICHARD H. PORTER,
Appellant,

vs.

STEPHEN V. WHITE,
Appellee.

No. 221.

Supplemental Brief of Appellant

MILANS, PR., 519 7TH STREET, N. W.

Supreme Court of the United States.

RICHARD H. PORTER,
Appellant,
vs.
STEPHEN V. WHITE,
Appellee.

SUPPLEMENTAL BRIEF OF COUNSEL FOR APPELLANT.

Since the printing of the original brief we have learned that the appellee claims, and will argue in this court, that the appellant sold him the whole of the attorney's fees in the two cases of Parsons and Standish, when in fact he owned but the half, and that he afterwards purchased the other half from Musser, Pike & Johnson, and that he is entitled in this court to offset or recoup the damages that he has thus sustained against the appellee's interest in the Conrow award.

Passing for the present the novelty of the claim we invite the attention of the court, first, to the equity of it as this is a proceeding in equity.

The Standish award was for $42,486.30; the Parsons award was $50,486.30; making an aggregate of $92,-972.60; the one half of which is $46,486.30, being the

full amount of fees; Porter's half sold White was		$23,243 15
For which White paid in money on Parsons award $4,000; equity in a house which he estimated at $3,000, . .	$7,000	
On the Standish award White paid	5,000	12,000 00
A margin of		$11,243 15
Porter got in fact but $1,500 out of the house		1,500 00
A profit of		$12,743 15

Mr. White was willing to re-assign to Porter for $10,000. (See his letter p. 61, Rec.)

The claim if there be any is in the nature of damages, and his damages were a clear profit of over $12,000, less a few hundred dollars for interest, on an investment of about $10,000.

That is the claim in its equitable aspect.

The appellee did not make so good an investment in purchasing the interest of Musser, Pike & Johnson for which he paid $30,000 in cash; but this purchase included the interest of the sellers in the *Conrow* award, making an aggregate of $35,953.08. The aggregate profit on the two transactions is about $18,696.23, less amount to be deducted for interest.

If the latter investment is not so good as the former Porter is not to blame for it, as he stoutly protested against White making the purchase, and certainly he was not under any necessity to do so to protect his own claim.

We think it would be rather difficult for the appellee to make out a claim against Porter for damages on account of this transaction in a court of equity.

The claim is nowhere made in the pleadings, nor in evidence, was not heard of in either of the courts below

and is presented for the first time in this court of last resort.

If he had intended to make any such claim he should have filed a cross bill and submitted his claim to the court in special term, when the appellant would have had an opportunity to have met it, and in case both original and cross bills had been dismissed, he should have taken a cross appeal.

The case comes into this court on appeal from the decree of the general term, dismissing the bill. The appellee took no appeal and can only be heard here in support of the decree as it now stands.

Corning et al *vs.* the Troy Iron and Nail Factory, 15 How., 464.
Canter *vs.* Ins. Co., 3 Pet., 318.
Chittenden *vs.* Brewster, 2 Wall., 196.
The Stephen Morgan, 94 U. S., 599.

S. S. HENKLE,
J. J. JOHNSON,
WM. E. EARLE,
Counsel for Appellant.

127-255

Office Supreme Court U. S.
FILED
APR 7 1888
JAMES H. McKENNEY,
CLERK.

Supreme Court of the United States.

OCTOBER TERM, 1887.

No. 221.

RICHARD H. PORTER, APPELLANT,

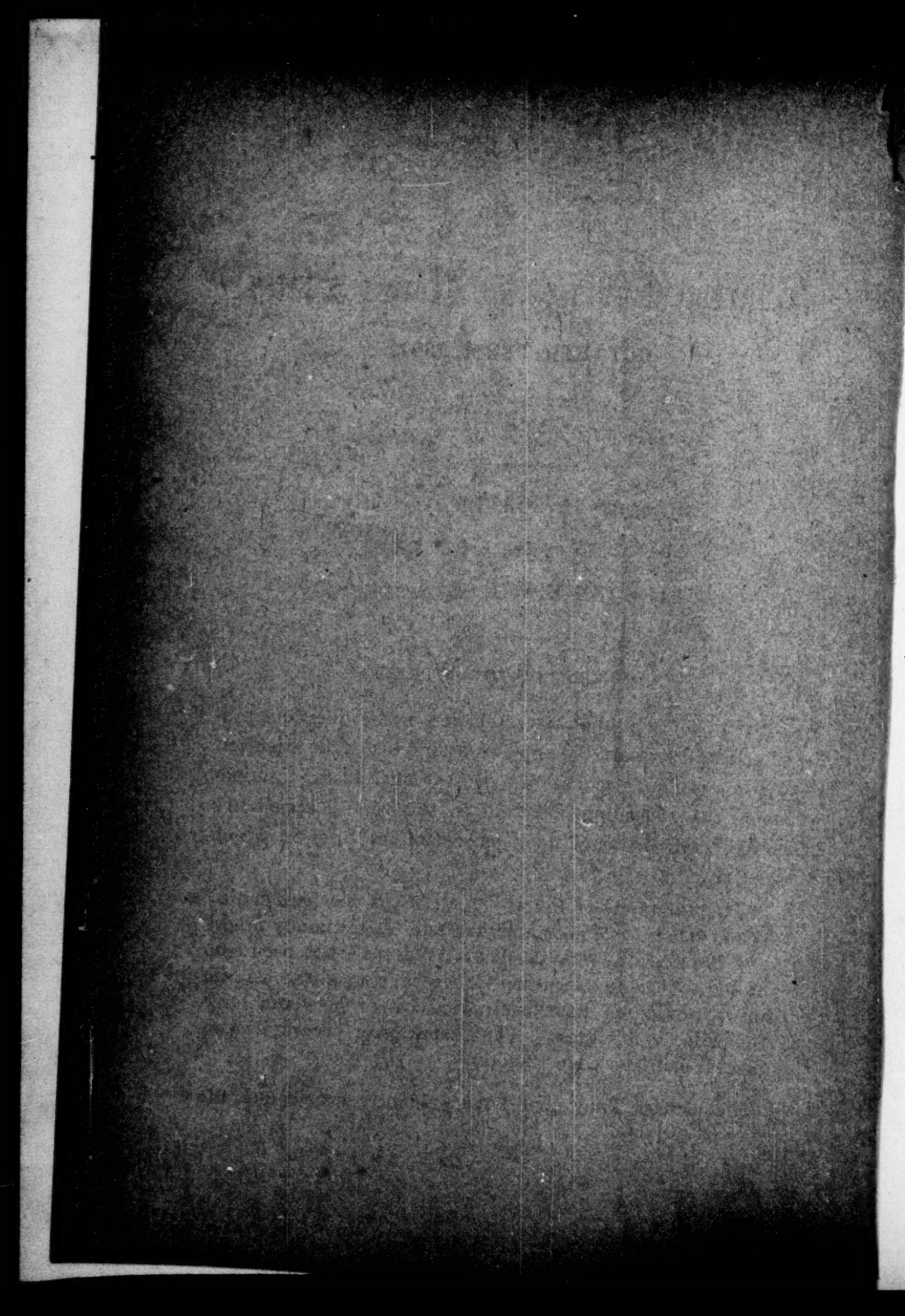
vs.

STEPHEN V. WHITE, APPELLEE.

ARGUMENT OF THE APPELLEE.

S. V. WHITE,
Appellee, in Person.

Judd & Detweiler, Printers.



Supreme Court of the United States.

OCTOBER TERM, 1887.

No. 221.

RICHARD H. PORTER, APPELLANT,

vs.

STEPHEN V. WHITE, APPELLEE.

ARGUMENT OF THE APPELLEE.

Before entering upon the discussion of the questions presented in the record the appellee desires to call the attention of the appellant's counsel and of the Court to an unintentional but misleading statement in the brief of appellant's counsel, which occurs upon page 8 of the brief, in which they say:

"The testimony of Porter * * * is nowhere denied in the evidence. Musser is living, and his testimony might have been taken to contradict it; if it had not been true and his absence not acounted for we have a right to assume that he would not have contradicted it or he would have been called as a witness." (The same error occurs also on page 11, foot, and page 12, top.)

The counsel know, but have evidently overlooked the

fact, that all the evidence in the case of Peugh *vs.* Porter (112 U. S., 737) was, by stipulation (see page 58 of Record), used as evidence in this case, and that in that case Musser contradicted Porter (pages 212 to 218) in every essential fact upon which he testified as to their relations and transactions, and especially as to whether he accepted the attorneyship for claimant in his own right as a personal trust or as agent for Porter, and that White paid him $15,000 and Pike & Johnson a like sum. His testimony (page 216 of that Record) is explicit upon that point. I note this in order that my opponents may make a correction which I am sure they will gladly make.

Upon the merits of this controversy it will be found that the appellant abandons the main contention of his bill and concurs in the finding of the chancellor who tried the case, and of the general term on appeal as to that claim. That contention was that the assignments by plaintiff to defendant of the moiety of two awards (Parsons against Mexico and Standish against Mexico) were merely intended as a pledge for the return of $7,500, and not as a sale of said moieties.

The recklessness of the swearing by appellant and his reliability as a witness will be best understood when it is seen that the testimony (pages 43 and 44 of the Record) shows that for the Parsons award the plaintiff received $7,000 in cash and a brown-stone-front house in Brooklyn, which he accepted and sold and kept the purchase-money, and that for the Standish award he received $5,000 in cash, and that all the negotiation for the sale of said moiety was conducted in writing, the letters being given on pages 56, 59, and 46 of the Record, and the question of a loan not even being

mentioned in his letters, but an absolute sale offered and accepted.

The contention, then, is wholly as to the Conrow award; and upon that award, with all due respect for and in harmony with the decision of Peugh *vs.* Porter, *supra*, I believe that I can show to this Court that no conditions exist to bring this Conrow claim into any litigation on the equity side of a court.

The case of Conrow was different from the other two. In that case Porter never had a scratch of a pen in the way of an assignment from either the claimant or from Musser. He procured executory contracts promising him an interest in certain contingencies in the two awards of Parsons and Standish from the claimants themselves, which placed him in those cases in the attitude of one having a direct standing before the court to demand an accounting.

Nor did the claimant Conrow stand silent and permit the State Department or the courts to distribute the fund. She specifically, under oath, repudiated Porter's claim, and directed the payment of the half of the amount to Musser and to Pike & Johnson in equal parts (see the Record, page —); so it is certain Porter can take nothing under assignment from her.

As to Musser, all the writing he ever had from him was the words on Musser's power of attorney following: "Richard H. Porter is hereby substituted as attorney in the within power." (See Record, page 22.) Take the well-known doctrine that, to constitute an equitable assignment, "it is indispensable to a lien thus created that there should be a distinct appropriation of the fund by the debtor, and that the creditor should be paid out of it." And this case presents

nothing coming within that rule. (Wright *vs.* Ellmore, 1 Wallace, 16; Trist *vs.* Child, 21 Wallace, 441.)

The Court will bear in mind that this is not a suit between Porter and Musser to settle a partnership. Musser is not a party to the suit.

It is not a bill to restrain the defendant from receiving the fund because of alleged insolvency. It is a claim in equity to retain a fund on the ground of an equitable lien, upon which fund he never had an assignment nor a contract for its receipt, either express or implied.

If he wanted to settle a partnership in equity Musser was a necessary party to its settlement, and he is not joined. If he wanted the money as against White and the money belonged to him, he had a plain, speedy, and adequate remedy-at-law, in an action in which White could have his constitutional right to a jury trial.

And while the case of Peugh *vs.* Porter, *supra*, decided the fact that Porter, acting for Musser, employed Peugh, and that such employment gave him (Peugh) a right as against Musser and those claiming under him, and against Porter and those claiming under him, there is nothing in that case which settles the equities between them as copartners; or, if it can be inferred by implication as to them, it is not made efficacious against a lawful assignee for value. But, assuming that Musser and Porter were equal partners, according to the conclusions in Peugh *vs.* Porter, still the plaintiff is not entitled to a decree for any part of the Conrow award.

It is conceded that the appellant sold the moiety of the Parsons award and of the Standish award to the appellee. These two awards aggregated $42,486.30 plus $50,828.76,

equal to $93,315.06, while the Conrow award amounts to $50,497.26. He (Porter) therefore sold White the half of $93,315.06, or $46,657.53, and White has possession, or will have when the remaining installments for which he holds the assignments, of the half of the Conrow award, say, $50,497.26, or $25,248.63.

The plaintiff comes into a court of equity to ask equity. His hands are reeking with fraud. His counsel concede that there is no longer any dispute but he sold claims against Mexico for $46,657.53, representing himself as their owner. They concede that of this sum there were $23,328.76 which he did not own.

The defendant at most, if plaintiff's contention is conceded, holds only $12,624.32 which would belong to plaintiff were it not for his fraudulent sales of the larger amounts; and yet in the face of the first rule which the student learns, that "he who asks equity must do equity," he has the hardihood to ask that he shall retain the $23,328.76 which he has fraudulently obtained and receive the $12,624.32, which the defendant might offset even in a suit at law.

Nor is the iniquity yet fully stated. When this case was tried below the case of Peugh *vs.* Porter was undecided in this Court; it was not known that Peugh had a claim to the amount of one-fourth of the $46,657.53 which the appellant had sold. Of this $11,664.38 one-half must come from the money sold to the appellee, equal to $5,832.19. What a sweet savor such a claim has in a court of conscience.

I shall ask in all seriousness that, although no cross-bill was filed in this case, the court below be ordered to direct an accounting, and that the court render judgment for the amount found to be due to the appellee for this money ob-

tained under false pretenses, and this I ask under the general power of an equity court, when the parties are before it, to do justice as between them in favor of the defendant without compelling him to resort to a court of law in a new litigation.

I cannot pass away from the consideration of the facts in this case without giving some attention to the arithmetic of the appellant's counsel and their inaccuracy of statement of evidence.

They say (page 11) that there is no evidence, oral or written, to sustain the claim that appellee paid $30,000 for the interest of Musser and Pike & Johnson.

The assignment (page — of the Record) recites the payment. White swears to it on page 50, Pike swears to it on page 41, and Musser on page 216 of the Record of Peugh *vs.* Porter as appellant's counsel will concede.

But if the evidence is carelessly stated the computations are worse.

The awards were, in round numbers, for $144,000, Mexican gold, which is never less than 3 per cent. discount. The half, or $72,000, less the 3 per cent., is less than $70,000 and, drawing no interest and subject to a per centum deduction for the United States' expenses on the commission, which was promptly retained out of first installment. The money was due in yearly installments, and had at the time of that purchase an average maturity of more than five years to run. It was tied up by a lawsuit, which is now far advanced on its tenth year of continuous litigation, which has been Protean in its forms.

And they want this Court to think that, although the full amount (say, $35,000), if paid promptly at maturity, would

not have realized 3 per cent., simple interest, on the $30,000 paid at that time, that the defendant would pay $30,000 for each award.

Further, the evidence shows (page 41) that they asked $40,000 in the first instance for the proportion sold to appellee, which, if their position is warranted by the facts, would show the assignors wanting a $5,000 bonus for the privilege of letting White into so good a thing. The venerable witness, General Albert Pike, seems to go a step too far in his testimony when he admits that they asked appellee $40,000 for what would be at maturity, on an average, five years thereafter, less than $35,000, if they impressed on him that they were selling him but $35,000 of the fees.

To find that the appellee was so foolish as to deal with Porter may create a strong presumption against him, but I trust it will not lead to the belief that he did not know that $40,000 was more than $35,000, nor that 3 per cent., simple interest, per annum was not a large reserve fund out of which to pay court fees and expenses through a ten years' litigation and a guaranty of the solvency of Mexico for twelve years.

For these reasons the appellee claims—

1st. That if any remedy existed it was at law, not equity; and,

2nd. That the facts show that appellant owes appellee $23,328.76, plus $5,832.19, equaling $29,160.95 less (if he equitably owned a half interest in the Conrow award) $12,624.32, or a balance, on that hypothesis, of $16,536.63, which is upon appellant's own theory due to appellee.

S. V. White,
Appellee, in Person.

y-235

Supreme Court of the United States.

OCTOBER TERM, 1887.

No. 221.

RICHARD H. PORTER, APPELLANT,

vs.

STEPHEN V. WHITE.

STATEMENT OF EQUITIES.

Parsons' award, paid September, 1876	$8,500
Eleven years and six months' simple interest	5,865
Paid Standish award, September, 1877	5,000
Interest, ten years and six months	3,150
Pike, Johnson, and Musser, February, 1879	30,000
Interest, nine years and two months	16,500
Purchase Peugh's interest under decision Peugh *v.* Porter	17,000
Interest, three years and two months	3,230
	$89,245

Credit five instalments of three awards, May, 1881	$25,750
Interest, seven years	10,815
Instalment, March, 1882	5,150
Interest, six years	1,854
Two instalments, March, 1884	10,300
Interest, four years	2,472
One instalment, 1885	5,150
Three years' interest	927
Three instalments, undivided	15,750
One and one-quarter yet to mature	6,437
	$84,605

STEPHEN V. WHITE,
Appellee, in Person.